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THE NATIONAL ENERGY PROGRAM: A CASE STUDY OF STATE ENERGY POLICY

by

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in partial fulfilment of the requirements for the degree of Master of Arts

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ABSTRACT

The *NATIONAL ENERGY PROGRAM: A CASE STUDY OF STATE ENERGY POLICY* is an analysis of the energy policy released by the federal government on October 28, 1980. In particular, the thesis examines two questions: 1) what factors (political, economic, and international) led to the formation of the NEP; and 2) what did this policy reflect about state action towards the energy sector in a capitalist society?

The thesis argues that although there is some autonomy in state action, on the whole the NEP reflects a state working primarily in the interests of private capital, and to maintain the capitalist relations of production. Autonomy of state action is evident primarily in the fact that a number of elements of the NEP work against certain fractions of capital (particularly foreign oil companies) and in favour of the federal state itself.

The thesis also examines the NEP in an historical context. This was done in order to demonstrate that significant elements of continuity exist with past energy policy as it developed throughout the 1970s. In particular, although the NEP reflects a state intent upon pursuing a form of economic nationalism, the NEP contains more elements of continuity than change with past energy policy.

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I. The State in Contemporary Capitalism-- A Theoretical Overview

INTRODUCTION

The National Energy Program which was released by the Canadian government in October 1980 was the third energy policy released by a Liberal government in the last decade. However, unlike the earlier programs[1], the NEP has raised unprecedented hostility from private capital, both domestic and foreign, the Alberta government, and the United States government. In the ensuing twenty-two months there have been a number of changes made to the program (the most important being the new pricing agreements reached with the Alberta, British Columbia and Saskatchewan governments in the fall of 1981); however on the whole the basic thrust of the program has not been substantially altered. There are many questions which must be raised when analyzing the NEP. The most obvious are: why was the NEP established and who does it benefit and who does it harm? Other more general questions which also must be considered are: what is the state's relationship to private capital (both oil and non-oil) and how has this influenced energy policy? Does the state act simply as the "executive committee of the bourgeoisie" (as some have asserted), or does it retain some degree of necessary autonomy in its policy behaviour? Finally, what part does the political play in influencing state policy?

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[1] *An Energy Policy for Canada* (1973), and *An Energy Strategy for Canada* (1976)

All of these questions will be assessed in the following chapters. [2]

In developing a theoretical framework for this thesis the liberal-pluralist conception of the state has been rejected. This type of analysis portrays the state as a neutral entity, somehow standing apart from society, mediating the interaction between conflicting groups, and only intervening to ensure that one particular group or organization does not become dominant. This type of analysis has been rejected for two reasons. First, it is very unlikely that a neutral state can be found in any society, and it is certainly not to be found in Canadian society. Indeed, the Canadian state has a long history of working precisely in the interests of certain fractions of Canadian capital. This can be observed as far back as the late 19th Century in the aftermath of Macdonald's National Policy (1879) where the primary beneficiary was the CPR, and as recently as the National Energy Program (NEP) where it is argued that the major winner again is large Canadian capital. In both instances (as well as numerous others), the state is anything but a neutral entity. Although it does not necessarily work at the behest of capital, it is nevertheless true that it does operate in the interests of private capital, and towards the end of fostering capital accumulation. Leo Panitch writes that,

---

[2] This thesis covers the period which ends with the signing of the September 1, 1981 energy agreement between the federal government and the Government of Alberta.

> State ownership of railroads and public utilities and state construction and operation of airports were never undertaken as ends in themselves with the aim of managing or controlling the economy, but always with a view to facilitating further capital accumulation in the private sphere to the end of economic growth.[3]

The second reason why pluralist analysis is rejected is because, on a theoretical level, such a conception of society is superficial. It assumes that all is fair and equal in society, and that all interests have the same opportunity to organize and compete on an equal footing. Clearly, society does not allow all interests to organize, much less to organize with equal resources and opportunity.

Having rejected the liberal-pluralist conception of the state as inadequate one might then turn to the "Marxist" school of thought on the state. However, there are also problems with this type of analysis (although less serious than those found in pluralism). Of utmost concern is the fact that Marxist analysis of the state in profitable sectors of the economy (of which the Canadian energy sector is certainly one) in advanced capitalist society has traditionally been weak. This may be attributed to two factors. First, it has been common for Marxist writers to focus their attention on state intervention to rescue unprofitable private enterprises such as coal or gas, industries which provided inputs critical to sustaining the overall vitality of capitalism. Such intervention has been labelled by Petter Nore as "defensive nationalization". He writes that,

---

[3] L. Panitch "The Role and Nature of the Canadian State" in L. Panitch (ed.) *The Canadian State* University of Toronto Press Toronto 1977 p. 14.

> One further way for the state to support the private sector is to provide cheap inputs like gas, coal, electricity to the production process. Historically these industries often became unprofitable to their private owners. This forced the state to intervene (almost invariably in the form of nationalisation) to ensure that such basic inputs were available at all. Such intervention by the state can be labelled 'defensive nationalisations'.[4]

However the Canadian oil and gas sector, at least since 1947, and certainly since 1973, has been one of the strongest sectors of the economy. Hence, on the whole this type of analysis ("defensive nationalization") cannot be used to explain the Canadian state's actions in the oil and gas sector.[5]

The second reason why contemporary Marxist writers have failed adequately to analyze the state operating in profitable sectors of the economy is due to their determination to portray society as dominated by an economic elite and the state in that society as a monolithic entity which operates with essentially no autonomy, acting solely at the behest of monopoly capital. This thesis attained wide-spread acceptance within Marxist writing in the 1930s and 1960s, as the theory of state monopoly capitalism emerged. As outlined by a prominent Soviet theoretician,

---

[4] P. Nore *Economics An Anti-Text* MacMillan 1977 p. 202

[5] However, there is one instance where this analysis might be appropriate. This was in 1975 when the Federal, Alberta and Ontario governments were forced to take a substantial interest in the Syncrude oil sands project in order to prevent its collapse. However, thus far this has been an isolated incident.

Victor Cheprakov, in *State Monopoly Capitalism*, this theory of the state in the period of state monopoly capitalism, sees a "fusion" between monopoly capital and the state.[6] Cheprakov writes that,

> State monopoly capitalism is imperialist capitalism in the epoch of its general crisis and collapse, when the fusion of the monopolies and the state has become necessary for the extended reproduction of monopoly capital and hence for the achievement of new monopoly surplus-profits.[7]

This thesis falsely portrays the state as the instrument of the ruling class, and suggests that monopoly capital is the only dominant fraction of capital. It is ironic that such a thesis can, and has, been traced directly to the writing of Karl Marx. Although Marx wrote extensively on capitalism, one major weakness in his writing lies precisely in the fact that he never developed a systematic analysis of the capitalist state. His attention was focused briefly on this crucial institution in particular texts,[8] however it is nevertheless true that he never completed a systematic analysis of the state in capitalist society. Hence, to base one's analysis of the state in 20th Century capitalism on a few isolated passages on the state made by Marx, often in a deliberately polemical manner-- for example those found in the *Manifesto*-- would be unwise. Nevertheless it has been done repeatedly. The most famous passage cited from Marx in support of a crude and simplistic analysis of the state acting at the behest of the dominant economic class(es) is found in the *Manifesto of the Communist Party* where he states that: "The executive of the modern State is but a committee for managing the common affairs of the whole bourgeoisie."[9] This type of analysis has been employed by many "Marxist" writers in recent times; one of the most notable in the Canadian context is Wallace Clement. In the *The Canadian Corporate Elite* he writes that, "Because the economic sphere is accorded such an important place in modern industrial societies, it is able to determine in large part government goals and policy."[10] Furthermore, he writes that due to the strength of this "economic sphere" the state is unable to pursue "national goals". Thus he writes that,

---

[6] For a good critical discussion of three variants (Soviet, German and French) of state monopoly capitalism, see Ernest Mandel, *Late Capitalism*, Verso Edition London 1978 pp. 516-522.

[7] IBID p. 516

[8] for example, the *Manifesto of the Communist Party* (1848), *The Eighteenth Brumaire* (1852), *The Civil War in France* (1871), and *The German Ideology* (1852).

> working within the framework of the assumptions of corporate capitalism and in the economic environment of multinational corporations, the state is not in a position to establish national goals and insure that they will be followed. Indeed, it appears that the alliance between government and business is not an alliance of equals but one dominated by the interests of corporate capitalism.[11]

Even more common amongst state monopoly capitalist theorists is to appeal to Lenin to legitimize their writings on the capitalist state. Although he never clearly defined what he meant by state monopoly capitalism, one of the few brief explanations he gives of the state operating in this phase of capitalism can be found in the Preface to the first edition of his most famous work on the state, *The State and Revolution*. Here Lenin writes that,

---

[9] K. Marx *Manifesto of the Communist Party* in R. Tucker (ed.) *The Marx-Engels Reader* second edition W.W. Norton and Co. 1978 p. 475

[10] W. Clement *The Canadian Corporate Elite* McClelland and Stewart 1975 p. 352

[11] W. Clement IBID p. 350

> The imperialist war has immensely accelerated and intensified the process of transformation of monopoly capitalism. The monstrous oppression of the working people by the state, which is merging more and more with the all-powerful capitalist associations, is becoming increasingly monstrous.[12]

Of course, the transformation to which he refers is that of capitalism into state monopoly capitalism.

There are serious problems with the thesis of state monopoly capitalism. First, as mentioned above, state monopoly capitalism suggests that monopoly capital is the only interest for which the state works. Certainly in the Canadian economy this portrayal of state action is inaccurate. For instance, crown corporations exist which provide credit to small and medium-sized businesses (the Federal Business Development Bank), or give loans to individuals for the purchase of housing (the Central Mortgage and Housing Corporation). Second, state monopoly capitalism outlines much too close a relationship between private capital and the state. This is particularly true with Cheprakov who argues that "nationalized corporations are run by representatives of monopoly capital."[13] Finally, this thesis has little relevance in explaining state action in the Canadian oil and gas sector, and more specifically in explaining the NEP. State monopoly capitalism argues that the state usually enters sectors with low profitability. However, direct intervention of the state in the oil and gas sector (through Petro-Canada) contradicts this argument as this sector was the most profitable sector of the economy throughout the 1970s.[14] Hence, for all of these reasons the state monopoly capitalist thesis of the state has been rejected as explaining the formation of the NEP.

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[12] V. Lenin Preface to the First Edition of *The State and Revolution*; in R.C. Tucker (ed.) *The Lenin Anthology* W.W. Norton and Co., Inc. 1975 p. 311.

The findings and analysis conducted in the following pages will contradict the reductionist type of analysis employed by Clement. Although "Marxist" methods of analysis will be employed, these will demonstrate a state acting in a somewhat different manner from that portrayed by Clement (or the Marx of 1848). While the following analysis argues that the state does ultimately act in the interests of maintaining and strengthening the capitalist economic system, it is also argued that the state does this with much more (necessary) autonomy than that attributed to it by writers such as Clement. However, before establishing the theoretical framework of this thesis, it is first necessary briefly to introduce the NEP and outline its major objectives.

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[13] V. Cheprakov *Le Capitalisme Monopoliste d'Etat* Editions du Progres Moscow 1969; cited in J. Niosi *Canadian Capitalism* James Lorimer and Company 1981 p. 73.

[14] More will be said about state involvement in profitable sectors of the economy below in the discussion of the state as a capitalist thesis.

THE NEP-- A BRIEF INTRODUCTION

The NEP, which was released in the fall of 1980, has proven to be a highly controversial program, to say the least. It has been attacked from all sides-- by foreign and Canadian oil capital, the Alberta and U.S. governments, and the federal opposition. [15] Why has this program raised such an unprecedented furore? This question (and others) will be assessed in Chapters 3 and 4. At this point, it is necessary briefly to introduce the major features of the NEP.

There are three major aims of the NEP. These are: 1) the Canadianization of the oil and gas sector; 2) establishing a pricing and revenue-sharing regime that is fair to all Canadians; and 3) improving the security of oil supplies and ultimately achieving independence from the world oil market. [16]

It is the first objective, Canadianization, which is the heart of the NEP; and although the other objectives are important, in this thesis emphasis has been placed upon the Canadianization aspects of the NEP. Canadianization of the oil and gas sector is to be achieved in two basic ways: 1) through direct state action; and 2) indirect methods using cash incentive grants. The major state instrument to be used in Canadianization is the state oil company-- Petro-Canada. Provisions are made in the NEP for Petro-Canada to take over a major foreign-owned oil company.[17] The major indirect method which the state has designed to increase Canadianization is through a new system of exploration and development incentives-- the Petroleum Incentives Program (PIP). These cash grants are heavily weighted towards companies with at least 50% Canadian ownership and control and which operate on the frontier. The objective of increasing Canadian ownership in the oil and gas sector is also promoted through the new frontier lands legislation known as Bill C-48 (the Canada Oil and Gas Act). This legislation ensures that a company must attain at least 50% Canadian ownership and control before production can begin on the frontier.

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[15] One notable exception to this barrage of hositility has been the large Canadian oil companies, firms such as Nova and Dome Petroleum. Of course it is precisely these firms that stand to gain the most from the program.

[16] EMR NEP (1980) p. 2.

The objective of establishing a fair pricing and revenue-sharing regime was also an important component of the NEP. Of course, the original pricing schedule, set out in the NEP has now been superceded with the signing of the energy agreements between Ottawa and British Columbia, Alberta and Saskatchewan in the fall of 1981. Of major importance to the federal government in achieving this objective was to increase substantially their total revenue from the oil and gas sector.[18]

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[17] This objective was achieved shortly after the release of the NEP, with Petro-Canada's takeover of Petrofina .

The final major objective of the NEP is to improve Canada's security of oil supply. This is to be achieved through a number of means: increasing Canadian ownership and control of the oil and gas sector; greater federal control over the energy sector; and through a continuation of the off-oil policy contained in earlier energy policies.

Having briefly introduced the NEP and outlined its major objectives, the theoretical framework used in this thesis (that of relative autonomy) will now be developed. It is this concept of the state which will be applied throughout the thesis to broadly explain the NEP.

POULANTZAS AND MILIBAND ON THE STATE-- THE CONCEPT OF RELATIVE AUTONOMY

In arguing against some of the cruder, reductionist Marxist portrayals of the capitalist state, Poulantzas goes so far as to argue that Marx's conception of the state was one that was a relatively autonomous entity. He writes that,

> Marx and Engels systematically conceive Bonapartism not simply as a concrete form of the capitalist state, but as a constitutive theoretical characteristic of the very type of capitalist state.[19]

Although this assertion is, at the very least, highly debatable, the concept of 'relative autonomy' does have considerable relevance when attempting to understand state activity in the Canadian oil and gas sector. But what does relative autonomy mean? First, it means that the state is not a monolithic entity capable of being captured by a dominant economic class. Secondly, it asserts that the state does work (if only, at times, in the long-run) to reinforce capitalist relations of production.[20] Parallel to this reasoning runs the assumption that society is composed of a number of economic (and other non-economic) interests, whose objectives do not always coincide. Hence, all cannot be satisfied simultaneously. What this means in terms of the state is that although it consistently works in the long-term interests of capitalism, it may be necessary for it, on occasion to work against the interests of certain (often powerful) fractions of capital. Poulantzas explains this as being due to the state's political function vis-a-vis the various classes in a capitalist society.

---

[18] Of course, their success in this endeavour has been substantially thwarted by the recent decline and stabilization of world oil prices.

[19] N. Poulantzas *Political Power and Social Classes* Verso Edition 1978 p. 258

> in fulfilling its political function the capitalist state comes to rely on dominated classes and sometimes to play them off against the dominant classes. It does this by concretely realizing the relative autonomy which it has vis-a-vis the dominant classes inscribed within its institutions: this autonomy allows it to remain in constant liason with their political interests.[21]

Although this explanation is typically structuralist in nature, and as such fails to explain exactly how the state acts in this manner, it nevertheless illustrates Poulantzas' conception of the capitalist state as relatively autonomous.

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[20] Whether or not it can be used to usher in a socialist society is another question and one which is quite irrelevant to the topic at hand.
[21] N. Poulantzas op cit p. 286

Basically, this argument is premised on the fact that the dominant economic fractions are unable to assert political hegemony. As Poulantzas explains,

> Left to themselves the classes and fractions at the level of political domination are not only exhausted by internal conflicts but, more often than not, founder in contradictions which make them incapable of governing politically.[22]

Hence no single fraction of capital is capable of capturing and directly controlling the state. Yet the state does operate in the long-term interests of the dominant fraction(s) of capital, and in general of capitalism, by granting sacrifices necessary for long-term stability and prosperity. As Poulantzas argues,

> The state may, for example, present itself as the political guarantor of the interests of various classes and fractions of the power bloc against the interests of the hegemonic class or fraction, and it may sometimes play off those classes and fractions against the latter. But it does this in its function of political organizer of the hegemonic class or fraction and forces it to admit the sacrifices necessary for its hegemony. [23]

Although Miliband would agree with the assertion that it is through the state's partial autonomy from the dominant economic class(es) that it is better able to work for the long-term interests of capitalism, there are some differences in the method through which Miliband and Poulantzas arrive at their respective conceptions of relative autonomy. Poulantzas, for instance, believes that the state does not contain any "independent" power which gives it some degree of autonomy. Rather,

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[22] N. Poulantzas IBID p. 298
[23] N. Poulantzas IBID p. 301

> the relative autonomy of the capitalist State stems precisely from the contradictory relations of power between the different social classes. That it is, in the final analysis, a 'resultant' of the relations of power between classes within a capitalist formation-- it being perfectly clear that the capitalist State has its own institutional specificity (separation of the political and the economic) which renders it irreducible to an immediate and direct expression of the strict 'economic-corporate' interests (Gramsci) of this or that class or fraction of the power bloc, and that it must represent the political unity of this bloc under the hegemony of a class or fraction of a class.[24]

It would appear from this that Poulantzas' conception of relative autonomy contains certain features common to the pluralist conception of the state, with its thesis of various interests combatting each other and the neutral state standing above and apart from the entire process. Of course Poulantzas would never suggest that the state is neutral; nevertheless his conception of the state does have some common features with the pluralist conception.

It is in the highly structural nature of his work that Poulantzas's writing on the state differs most profoundly from that of Miliband. Poulantzas spends relatively little time empirically demonstrating the state working in a relatively autonomous manner. Rather, he merely states that the capitalist state, by its very nature, is relatively autonomous and that it has this particular characteristic

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[24] N. Poulantzas "The Capitalist State: A Reply to Miliband and Laclau" in New Left Review 95 January-February 1976 p. 73

"inscribed within its institutions."[25] In objecting to the overly structuralist nature of Poulantzas' work, (a charge which Poulantzas denies[26]), it is apparent that Miliband's conception of relative autonomy is established in a manner different from that of Poulantzas. Miliband spends a great deal of time attempting empirically to demonstrate the relative autonomy of the state. He has extensively researched British, American and other Western democracies' political institutions and has found that, for the most part, business leaders do not dominate the state elite:

> Notwithstanding the substantial participation of businessmen in the business of the state, it is however true that they have never constituted, and do not constitute now, more than a relatively small minority of the state elite as a whole. It is in this sense that the economic elites of advanced capitalist countries are not, properly speaking, a 'governing' class, comparable to pre-industrial, aristocratic and landowning classes.[27]

Furthermore, he has also found that the state does not always work in the interests of the dominant ecomomic class(es):

> the dominant economic interests in capitalist society can normally count on the active good-will and support of those in whose hands state power lies. This is an enormous advantage. But these interests cannot, all the same, rely on governments and their advisers to act in perfect congruity with their purposes. As was noted earlier, governments may wish to pursue certain policies which *they* deem altogether beneficial to capitalist enterprise but which powerful economic interests may, for their part, find profoundly objectionable; or these

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[25] N. Poulantzas *Political Power and Social Classes* Verso Edition 1978 p. 286.

[26] N. Poulantzas *New Left Review* op. cit.

[27] R. Miliband *The State in Capitalist Society* Quartet Books 1973 p. 55.

> governments may be subjected to strong pressure from other classes which they cannot altogether ignore.[28]

Thus, although Miliband and Poulantzas arrive at their conclusions through quite different methods, they both view the capitalist state as relatively autonomous.

One of Miliband's most useful contributions to the debate on the state is his definition of just what exactly comprises that institution. For Miliband the state is composed of a number of institutions: government, the bureaucracy, the military, the judiciary, representative assemblies, and sub-central levels of government (i.e. provincial legislatures including provincial civil servants). As Panitch has pointed out, this definition is most important for what it leaves out: political parties, pressure groups, and the privately owned media.[29] There is little doubt that the latter organizations exert an important influence on the political system and by defining them as outside the realm of the state this means that "within the rubric of bourgeois democracy, as opposed to fascism, class conflict does obtain political and industrial expression through the voluntary organizations of the working class."[30] Recognition of this point is important for this thesis as it allows one to conceive of the state as being able to operate in the interests of others than the dominant fraction of the bourgeoisie.

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[28] R. Miliband IBID p. 130.

[29] L. Panitch "The Role and Nature of the Canadian State" in L. Panitch (ed.) *The Canadian State* Toronto University of Toronto Press 1977 p. 6.

[30] L. Panitch IBID p. 7.

As with Poulantzas, Miliband also stresses the separation between state and economy (or economic classes) in contemporary capitalist societies, noting that his empirical studies have demonstrated that the capitalist class is generally separate from the state.[31] Miliband argues that,

> one of the main reasons for stressing the importance of the notion of the relative autonomy of the state is that there is a basic distinction to be made between class power and state power,[32]

Furthermore, Miliband, again like Poulantzas, does not see class, either the bourgeoisie or the proletariat, as homogeneous entities. For instance, within capital there is commercial, financial and industrial capital. And even these categories can be further divided-- for example, industrial capital can be further divided into manufacturing capital and primary producers. Due to the presence of numerous class fractions with their often different and even conflicting interests, the state must mediate between them to maintain order. To do this the state must have some degree of autonomy from any "ruling class". Thus it is because the bourgeoisie is not a monolithic entity that it cannot directly use the state to pursue its interests. Hence the state, for Miliband, as for Poulantzas, has some degree of relative autonomy, this being necessary so that the state can function in the interests of capitalism as a whole and not just one particular class interest. In explaining this, Miliband writes that,

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[31] R. Miliband *The State in Capitalist Society* 1969 p. 51.
[32] cited in Leo Panitch "The Role and Nature of the Canadian State" in L. Panitch (ed.) *The Canadian State* Toronto University of Toronto Press 1977 p. 8.

> while the state does act, in Marxist terms, on behalf of the 'ruling class', it does not for the most part act at its behest. The state is indeed a class state, the state of the 'ruling class'. But it enjoys a high degree of autonomy and independence in the manner of its operation as a class state, and indeed must have that high degree of autonomy and independence if it is to act as a class state.[33]

Miliband also notes that at times the state may be forced to work against certain fractions of capital. He writes that,

> governments, acting in the name of the state, have in fact been compelled over the years to act against some property rights, to erode some managerial prerogatives, to help redress somewhat the balance between capital and labour, between property and those who are subject to it.[34]

In fact, working against powerful fractions of capital may be necessary to ensure the prosperity of capitalism as a whole:

> governments may wish to pursue certain policies which they deem altogether beneficial to capitalist enterprise but which powerful economic interests may, for their part, find profoundly objectionable;[35]

Yet the relatively autonomous nature of the state does not mean that the state is not a class state.

> the relative independence of the state does not reduce its class character: on the contrary, its relative independence makes it possible for the state to play its class role in an appropriately flexible manner. If it really was the simple 'instrument' of the 'ruling class', it would be fatally inhibited in the performance of its role. Its agents absolutely need a measure of freedom in deciding how best to serve the existing social

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[33] R. Miliband *Marxism and Politics* 1977 p. 74
[34] R. Miliband IBID p. 71
[35] R. Miliband IBID p. 130

order.[36]

Finally, Miliband also notes that most governments do maintain a fundamental belief in the virtues of capitalism. He states that governments of advanced capitalist countries,

> have mostly been composed of men who beyond all their political, social, religious, cultural and other differences and diversities, have at least had in common a basic and usually explicit belief in the validity and virtues of the capitalist system.[37]

Duvall and Freeman also have a convincing thesis on the degree of autonomy of state action. Like Poulantzas and Miliband, they do not portray the state acting simply at the whim of certain dominant class interests. Rather, they conceive the state as having a significant amount of autonomy. Although Duvall and Freeman have made no attempt to develop a systematic and rigorous thesis on the autonomy of the state, their work does provide a more convincing conceptualization of the state. They write that the state is,

> both an unconscious product and reflection of social structures and the resultant of the goals, expectations, and capabilities of the separate institutional agencies of the state, as well as those of the government.[38]

Although Duvall and Freeman emphatically portray the state as acting in the best interests of capitalism they also succeed in improving upon the conceptions of relative autonomy developed by Poulantzas and Miliband by recognizing that there is a degree of independence to state agencies and managers as well as incorporating the structural realities of state action into their portrayal of the state. Recognition of at least some degree (albeit small) of independent state action is crucial in explaining why the state does act, at times, against certain powerful economic interests.

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[36] R. Miliband *Marxism and Politics* p. 87

[37] R. Miliband *The State in Capitalist Society* p. 64-5

[38] R. Duvall and J. Freeman "The State and Dependent Capitalism" in *International Studies Quarterly* March 1981 Vol. 25 No. 1 p. 105

THE STATE AS A CAPITALIST

Another conception of the state which has been developed in recent years in an attempt to explain the state acting in the profitable sectors, especially the oil and gas sector, of the economy is that of the "entrepreneurial state" (R. Duvall and J. Freeman, Peter Evans) or the state acting a capitalist (Petter Nore). Duvall and Freeman define the "entrepreneurial state" by: its direct entry into productive sectors of the economy (sectors that directly produce surplus-value), the fact that it continues to act very much like a private capitalist, and that it retains a general commitment to capitalism.

> [W]hat distinguishes state entrepreneurship as a currently important phenemenon is the expansion of the state into productive sectors of the economy (as distinct from infrastructure provision), the degree to which (public) management conforms to standard capitalist performance criteria, and the general commitment of the state to capitalist development. These features-- state ownership of noninfrastructure enterprises, the relative importance of capitalist performance criteria, and the extensive commitment to capitalism-- define the

> entrepreneurial state.[39]

It is clear from this that for Duvall and Freeman, the entrepreneurial state continues to function in the interests of capitalism. This is reaffirmed by the following statement:

> the entrepreneurial state is distinguished from the socialist state in that it is guided by capitalist ideology and acts in accordance with a capitalist model of development. There is a general commitment to the private sector to the extent that the private functions adequately to promote development.[40]

For Evans, writing about the state in Brazil, this type of state action is encouraged by the dominant presence of multinational corporations. He states that "the necessity of of coping with the multinationals accentuates the entrepreneurial side"[41] of the state. Certainly the presence of a state oil company has improved the bargaining position of the Canadian federal state.[42] However, if one were to pursue this analysis to its logical conclusion, it would argue that the state will continue to expand its presence in the oil and gas sector until it begins to squeeze private capital. This is quite incompatible with the argument presented above that the state is working fundamentally in the interests of private capital, as by expanding at the expense of private capital the state is not serving capital's interests.

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[39] R. Duvall and J. Freeman IBID p. 105.
[40] R. Duvall and J. Freeman IBID p. 104.
[41] P. Evans op cit p. 47
[42] P. Evans IBID p. 46

Petter Nore also assesses the state operating in profitable sectors of the economy, although he speaks of it in terms of the state acting as a capitalist. Nore's work concerns the oil and gas sector, and for him the idea of oil as a strategic commodity is of great significance in explaining the recent phenomenon of the state directly intervening in the oil and gas sector in many countries (producing and consuming alike):

> Because of its central role in the accumulation process, the state takes a particular interest in strategic commodities. A capitalist state with the responsibility of establishing, maintaining and reproducing the conditions of capital accumulation has little choice but to ensure the security of supply of such goods. This argument explains, especially for oil importing countries, why there has been a tendency towards the establishment of state oil corporations.[43]

As will be seen below, improving security of supply was certainly a major consideration in the decision to create a state oil company in Canada. But Canada is also a significant (in domestic terms) oil producer. How then does Nore's thesis deal with producers? He notes that for some exporting countries (specifically Norway) the capital cost of production is very high and hence direct state assistance is required.

> To understand the creation of state oil corporations in exporting countries, we must turn to the increased socialization of the productive processes in the oil industry. Concretely this means that the necessary capital investment to produce oil is in many cases so vast that no single unit of private

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[43] P. Nore "Oil and the State: A Study of Nationalization in the Oil Industry" in P. Nore and T. Turner (eds.) *Oil and Class Struggle* Zed Press 1980 pp. 82-83.

> national capital is large enough to undertake investment on the necessary scale.[44]

Although there is some truth to all of the points outlined by the various authors referred to above, on the whole the state as a capitalist thesis remains inapplicable to the state acting in the Canadian oil and gas sector. First, the state capitalist thesis would argue that state expansion in the oil and gas sector will continue on a significant scale in coming years. It is argued here that this is unlikely as this would severely hinder the operation of private capital. At the moment representatives of the federal state believe private (Canadian) capital should be the major instrument used to Canadianize the oil and gas industry and to propel its future growth.[45] Second, if the state were acting as a capitalist (i.e. maximizing profits) surely it would not be spending 60% of its exploration budget on the frontier (as Petro-Canada has done over the last six years), Third, one would expect a state capitalist (e.g. Petro-Canada) to directly contribute to the accumulation of capital. However, as will be seen in Chapter 3, to date Petro-Canada has contributed little to the net accumulation of capital. Fourth, one would expect a state capitalist to engage in nationalization. However, Petro-Canada has conducted all its takeovers of private oil firms through methods common to the business world--purchasing shares (ownership) on the market. Finally, the state acting directly in the oil and gas sector (through Petro-Canada) has no intention fundamentally to alter the capitalist relations of production. The state remains committed to the private sector and will continue to rely upon it to a significant degree to develop Canadian oil and gas reserves. Hence, for all of these reasons the state as a capitalist thesis has been found inadequate for explaining state action in the Canadian oil and gas sector.

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[44] P. Nore "Oil and the State: A Study of Nationalization in the Oil Industry" in P. Nore and T. Turner(eds) *Oil and Class Struggle* 1980 p. 83

[45] Of course the state may be forced to intervene further in particular instances (i.e. perhaps to save Alsands) but such involvement will be limited.

CONCLUSION

The above has attempted to establish the theoretical framework for this thesis. Although an examination of the most recent energy policy is not a broad enough research basis to construct an original thesis on the state in Canadian society, it does allow one to measure state action against some of the critical theories developed by recent neo-Marxist writers. It will be argued that in a number of respects state action in designing the NEP does conform to the conception of the state acting in a relatively autonomous manner. Briefly, this is evident in the fact that in a number of critical areas the NEP is directly opposed to the interests of foreign-owned oil capital, while in others it clearly benefits other fractions of capital, in particular large Canadian oil capital and central Canadian industrial capital. In still others areas, the NEP serves to benefit the federal state itself (through greatly enlarged revenues). Thus in attempting to strengthen the capitalist economy the state (in this instance) has operated through particular private interests, as well as through strengthening itself as a capitalist institution. Hence, it will be argued in subsequent chapters that although there certainly is some degree of autonomy to state action in the oil and gas sector (the precise amount is of course impossible accurately to determine), the Canadian state remains fundamentally committed to the interests of capitalist enterprise.

In structuring this thesis an historical approach has been adopted. This is necessary because it allows one to place the NEP in context with past energy policy, and to observe the areas of continuity and change with past policy. When one examines earlier Liberal energy policy (especially the 1976-77 frontier legislation) one can identify in embryonic form many of the proposals contained in the NEP (for example Canadianization, Canadian ownership requirements, and the self-sufficiency objective). Thus the second chapter is devoted to detailing federal energy policy as it developed in the 1970s. The third and fourth chapters contain the major thrust of the thesis, where it is argued that although the state is primarily working in the interests of private capital it does this with a certain degree of autonomy. Chapter 3 examines the NEP itself and the recent pricing agreement between Ottawa and Alberta. In this chapter one can observe large Canadian oil capital and industrial capital benefitting from the Petroleum Incentives Program (PIP), and the 50% Canadian ownership (by 1990) requirement. Of critical importance to the argument of relative autonomy is how the presence of fiscal crisis at the federal level of government has forced the federal government to take a large piece of the revenue from the oil and gas industry (through increased taxation). Finally, it is also argued that the expansion of Petro-Canada (as provided for in the NEP) has been designed in order to expand federal control over the oil and gas sector. Both these developments demonstrate that the state does not work exclusively in the interests of private capital, but also in its own interests. Hence, there is some autonomy in state action. Chapter 4, by examining Bill C-48 (an important component of the NEP), supports the argument developed in Chapter 3 that the state works primarily (but not exclusively) in the interests of private capital. This is evident in the Canadian procurement regulations and the requirement of 50% Canadian ownership before production can begin on the frontier. Bill C-48 also supports the argument of relative autonomy as it contains important provisions for increased ministerial control over the exploration and production on the frontier. This again shows that the NEP strengthens the position of the state in the oil and gas sector, and in this action is not working directly in the interests of private capital. The final chapter (5) primarily serves to draw together the arguments made in the preceding chapters and to conclude the thesis.

II. The State and Energy Policy, 1973-1980

INTRODUCTION

Having established the theoretical framework for this thesis it is now necessary to take an historical look at Canadian energy policy as it developed in the decade immediately prior to the National Energy Program's (NEP) publication. This is necessary for two reasons: first, the 1970s witnessed a number of disruptive changes in the field of energy which were experienced world-wide. Most notable were the 1973 oil embargo and price increases and the even more dramatic (in terms of effect) price increases of 1979 (along with the loss of Iranian supplies which caused widespread fears of an oil shortage). These sudden changes required responses from all oil importing nations, including Canada. Although Canada was actually a net exporter of both oil and energy in 1973, these disruptions resulted in important policy changes. Briefly, after the 1973 crisis the most notable responses involved the decisions to freeze the domestic price of oil and to create a state oil company; after 1979, the response again involved the state oil company, with its role being expanded to participate in state-to-state oil trading. Both these policy responses represented important changes with past energy policy and thus require analysis.

The second, and more important reason for this thesis, why 1970s energy policy requires analysis is to note both elements of continuity and change with the NEP, and thus to place the NEP in a context which enables one to understand better its historical roots. This allows one to see areas in which continuity exists and significant changes have been made with past policy (and ultimately to explain why the continuity and why the change).

There have been numerous important developments in Canadian energy policy throughout the 1970s, all of which cannot possibly be examined here. Thus a select number of the most important developments will be singled out for analysis. Of these certainly one of the most important and obvious policy developments was the governments' response to the dominance of the energy sector by foreign owned and controlled multinational oil companies. Closely related to this policy was the increasing use of direct state involvement (primarily through the state oil company, Petro-Canada) to expand national control over the crucially important energy sector. Also of note was the continuing use of conventional regulatory instruments (such as taxation schemes, export and price controls, etc.). Finally, it is important to note the intensifying fiscal crisis within the federal government and how this affected federal-provincial relations over energy. However, it must be emphasized that although fiscal imbalances certainly influenced policy decisions earlier in the decade, on the whole the real impact of fiscal crisis did not begin significantly to affect energy policy until 1979.[46] Thus the importance of this factor is really only relevant to the periods of the Clark government and the NEP.

In order to make the discussion and analysis of these factors more manageable, this chapter has been divided into three sub-sections, each focusing on a different dimension of federal energy policy. The first section outlines the predominant role that the private sector (dominated by the multinational oil companies) has played in the Canadian energy field, and (partly in response to this) the increasing use of direct state intervention to conduct energy policy. This section will also examine the system of land regulations developed in 1976-77, and the fiscal system which evolved during the 1970s. The final two sections deal with federal-provincial relations over energy, and a brief analysis of the Clark government's energy policy.

THE MULTINATIONALS, THE STATE AND ENERGY POLICY

Foreign Control of the Petroleum Sector

The multinational oil companies have long been one of the four major actors involved in the Canadian energy sector, the other three being the federal state, the governments of the producing provinces and the (non-multinational) Canadian oil companies. Indeed, the multinational oil companies, the majority of which are foreign-owned, have dominated the Canadian petroleum sector since at least 1947. This domination continued throughout the 1970s, although it has been reduced. Table 1 shows that in 1971 the level of foreign ownership and control was very high at 79.5% and 94.4% respectively (measured in terms of revenues). Although these levels had been reduced to 74.0% and 81.5% by 1980, the level of foreign ownership in the oil and gas sector has remained a major concern of the federal government for reasons which will become apparent shortly.

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[46] The erosion of Ottawa's tax base had been a federal concern since 1974, when, in at attempt to increase Ottawa's oil revenues, both 1974 budgets discontinued the practice of allowing provincial royalty payments to be deductible from federal income tax.

TABLE 1

FOREIGN OWNERSHIP AND CONTROL OF THE PETROLEUM INDUSTRY

	1971	1973	1975	1977 (%)	1979	1980
REVENUES(1)						
Foreign Ownership	79.5	78.7	76.1	73.7	73.8	74.0
Foreign Control	94.4	94.0	92.9	87.0	82.5	81.5
ASSETS(2)						
Foreign Ownership	77.7	75.8	72.2	66.8	62.2	62.2
Foreign Control	89.6	87.7	84.7	73.3	60.5	58.9

Notes:

(1) The estimates are calculated on petroleum-related revenues (upstream and downstream), which represent about 95% of total industry revenues.
(2) The estimates are calculated on total assets of reporting companies.

Source: Petroleum Monitoring Agency *Canadian Petroleum Industry 1980 Monitoring Survey* Table 8.1

Although the federal government purchased 49% of Panarctic Oils Ltd. in 1969, until 1976 and the formation of Petro-Canada, this is where direct government participation ended.[47] As of 1973 the federal government's ownership in the oil and gas industry was inconsequential, amounting to less than one per cent.[48] Indeed even this amount of government involvement was of little importance as there was no significant amount of ministerial direction exerted over these interests. As mentioned above, this structure was formed deliberately as until 1973 it was believed within the federal government that the private sector could best provide the country with its oil and gas requirements. All that was necessary for the government to do was merely to play a passive regulatory role.[49]

In order to understand why this policy developed and the resulting entrenchment of the multinational oil companies in the energy sector, one must look back to the 1960s, a period of both energy abundance and significant economic growth. In this decade little concern was expressed within federal ranks over the dominance of the multinationals which both supplied Canada with imported oil and dominated domestic production. Indeed, it was precisely the 1961 energy policy developed by the Conservative administration of John Diefenbaker which was responsible for much of the strength of the multinational oil companies in this period. This policy, known as the National Oil Policy (NOP) was most notable for its consolidation of multinational dominance, as it served to formalize market patterns of supply that had developed throughout the 1950s. [50] This meant that a two price system was established with the area west of the Ottawa Valley being supplied (at a higher price) by Canadian oil and that east of the "border" continuing to be supplied by imports. These imports, of course, were provided by the multinational oil companies, which reinforced their dominant position in the Canadian oil market.

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[47] Of course, after 1956 a federal crown corporation helped to build part of the Trans-Canada gas pipeline.

[48] EMR An Energy Policy for Canada, Volume 1 (1973) p. 18

[49] It should be noted, however, that the oil companies were not operating in a "free market" situation.

What were some other consequences of allowing the multinational oil companies to acquire a near monopolistic hold on the eastern Canadian market? It appears from the Bertrand Report, entitled *The State of Competition in the Canadian Petroleum Industry* , a lengthy 7 volume document based on seven years of investigation into petroleum industry practices, that the major foreign-controlled oil companies have used their market power to overcharge consumers in eastern Canada. As the document states,

> This study demonstrates that the performance of the Eastern Canadian market was adversely affected by the transfer pricing policy of the multinationals operating in this market. Throughout the period under study-- 1958 to 1973-- the crude oil prices paid by most of the Canadian subsidiaries of these companies were high compared to arm's-length crude

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[50] see J. Debanne "Oil and Canadian Policy" in E. Waverman (ed.)*The Energy Crisis Volume II: North America* University of Toronto Press Toronto, 1974.

> prices and this served to affect prices in the final product market.[51]

Furthermore, the Report recognizes that this policy was not the making of the Canadian subsidiaries but of their parent, foreign-based firms. For example, in regards to the control exercised by Exxon over Imperial Oil, the Report writes that,

> The picture of Imperial that emerges from various sources is that of a company which had little control over either the sources or the prices of its crude. Its freedom to choose the lowest priced crude suitable for its refineries was substantially restricted by its parent corporation.
>
> Within the Exxon (Jersey) organization, a central supply group had the responsibility for allocating oil supply sources to the various marketing subsidiaries (Imperial Oil Limited v. Nova Scotia Light and Power Limited... Hearings). While vitally affected by the decisions of this central supply group (the oil sent to Imperial was determined by this group), Imperial had no representation on the group and was allowed only to submit recommendations to it.... The manager in charge of obtaining foreign crude for Imperial described Imperial's position in the following terms:
>
> 'We may decide at Imperial, we may decide that we want to get oil, and that is our decision, but whether or not the final decision is made that we are going to get that is not necessarily ours, Imperial's.'
>
> There can be no doubt as to the constraints imposed upon Imperial by this relationship.[52]

It was because of this control exerted by the parent firms and the near monopoly over distribution in the eastern Canadian market that the Canadian subsidiaries, and ultimately the Canadian consumer, paid higher prices than the real international selling price of crude oil throughout the sixties even though the international price was falling.

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[51] R. Bertrand *The State of Competition in the Canadian Petroleum Industry: International Linkages: Canada and the World Petroleum Market* Volume III Ottawa 1981 p. 1

[52] IBID p. 32.

> It is clear from the contracts that, during the late nineteen fifties, Canadian companies continued to pay posted or very close to posted prices for their crude oil even though world prices had fallen below the posted levels.[53]

In charging Canadian subsidiaries the posted price for crude, while world prices declined between 1960 and 1970, both Imperial and Gulf followed similar strategies. Imperial set its prices at the "average of competition" (the average cost of imported crude supplies for its competitors) rather than at the real world price. As evidence the Report cites a letter sent from Exxon to Imperial which said:

> Imperial will review their raw material cost position relative to competition about twice yearly, and changes will ,be made only if significant differences in their position should develop. At the same time, every effort will be made to correct promptly any substantial differences which do develop.[54]

Gulf followed a similar policy while Texaco Canada and Shell Canada both had the price of their crude frozen by their parent companies.

> Shell Canada signed a ten year contract in 1967 at fixed prices.... Texaco was placed in a similar situation. Even though crude costs and transportation rates were falling in the late nineteen sixties, no downward adjustment was made in Texaco Canada's crude costs between 1965 and 1969 (Document # 53897). This policy left both these companies with even less flexibility than Gulf Canada and Imperial.[55]

It is quite clear from this that Canadian subsidiaries such as Imperial and Shell Canada etc., had little control over their supply and price of crude oil.

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[53] IBID p. 21
[54] IBID p. 22
[55] IBID p. 24

Thus it appears from the Bertrand Report that one of the consequences of the consolidation of multinational dominance in the eastern Canadian market was that Canadian subsidiaries, and ultimately Canadian consumers, were forced to pay prices higher than those prevailing on the world market. In total the Bertrand Report alleges that the oil companies overcharged the Canadian consumer by about $4.6 billion (the equivalent of $12 billion in 1981 dollars) between 1958 and 1973.[56] From this evidence one must now, with hindsight, seriously question the wisdom of the 1961 NOP, with its willingness to allow the MNOC's to dominate the eastern Canadian market.

Although the Bertrand report was not published until 1981, events which occurred in the early 1970s (specifically the 1973 oil crisis with its attendant embargo of select western nations and the quadrupling of the international price of oil) brought with them a re-evaluation on the part of both the government and the public, of the role which the multinational oil companies should play in the supply of Canadian oil requirements. Apprehension over security of supply can be traced directly to the 1973 crisis, to press reports of oil-laden ships sitting off the eastern United States seaboard waiting until the price was high enough before unloading their cargoes, and to cries of foul play emanating from the Japanese who claimed that supplies destined for that country (which was not embargoed) had been diverted by the multinational oil companies to other (embargoed) countries such as the Netherlands and the United States. Although this charge has never been proven, it did spark some concern over security of supply among federal policy makers. Indeed, concern was heightened by rumours that oil destined for Canada from the Middle East had been diverted to the U.S..[57] This apprehension manifested itself in a growing skepticism by both the public and the government of the oil companies' ability to supply oil in a reliable fashion. However, the 1973 crisis caused more than just an increased apprehension of the oil companies. It also saw the demise of the old NOP. World events, reflecting a profound structural change in the international petroleum market, which saw the increasing strength of the OPEC states in the early 1970s and a concomitant decline in the control exerted by the multinational oil companies over the world oil market, necessitated policy changes within Canada.

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[56] Globe and Mail April 1, 1981 p. B1

The new oil policy which developed in the wake of the OPEC crisis was outlined in a speech made by Prime Minister Trudeau in December 1973. [58] Under this new policy the old two price system for oil was abolished, and replaced by a system of one price for all Canadians. Henceforth all Canadians would pay the same price for oil, subject only to transportation and quality differences. However, as the price of international oil which supplied eastern Canada was now considerably more expensive than that which supplied western Canada, (part of the new policy was the September freezing of the Canadian price of oil at $3.80/barrel), the price of imported oil would have to be subsidized. Hence the establishment in January 1974 of an Oil Import Compensation Program. This policy decision was to have important repercussions later in the decade, when, with imports comprising 25% of oil consumption and the price of oil approximately 10 times higher than in 1972, the cost of subsidizing imported oil was producing a severe drain on federal finances. Ultimately the "fiscal crisis" existing at the federal level was to be an important factor in influencing the nature of the energy policy which emerged in 1980-- the NEP. In addition to altering the domestic price structure, the new oil policy also allowed for the extension of the pipeline to Montreal, and proclaimed the government's intention to introduce legislation in the next session of Parliament to establish a national petroleum company. This latter decision represented a fundamental change from past policy under which the government had refrained from becoming directly involved in the petroleum sector. (This decision and its consequences will be discussed more thoroughly below.)

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[57] International Canada; October 1973 Volume 4, No. 9, p. 253

[58] see House of Commons Debates 7th Session, 29th Parliament, December 6, 1973, p. 8478

Traditional Means of Regulation

Before discussing Petro-Canada it is first necessary to understand how the industry was controlled (and still is, in part) through the traditional regulatory bodies such as the National Energy Board (NEB), the incentive system for exploration and development, work requirements, etc.. In all of these areas one can see an attempt by the federal government (after 1973) to increase its control over the petroleum sector throughout the 1970s.[59] However, it has also been obvious, even since the formation of Petro-Canada, that the federal government clearly wants, and needs, the private sector to develop Canada's oil and gas resources. As was argued in Chapter one, although the state may be forced to work against the interests of some fractions of capital, this does not make it against the interests of capital as a whole. Indeed, it is manifestly for the survival of capitalism. But because the federal state has so many interests to concern itself with, there will be times when it must play the interests of one fraction of capital off against another for the good of the entire system. But even noting this, the oil and gas sector was still allowed to make significant profits during the 1970s. The net income of eight major oil companies (Imperial Oil of Canada, Gulf Canada, Texaco Canada, Shell Canada, Hudsons Bay Oil and

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[59] And as will be argued in chapters 4 and 5, the NEP continues the federal government's efforts to increase its control over the oil and gas sector, both on provincial lands and most notably, on the Canada Lands.

Gas, Amoco Canada, British Petroleum, and Petrofina Canada) increased by an average of 657% between the years 1972/73 and 1979/80.[60] Furthermore, Table 2 illustrates that net income for petroleum industries as a percentage of income for all other non-financial industries (including petroleum) increased dramatically between 1972 and 1980, doubling from 15.3% in 1972 to 29.7% in 1980.

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[60] These figures have been calculated after taking account of inflation which ran at an average rate of 11%/year over that period. See Financial Post August 5, 1972 p. 9; and The Financial Post 500 June 1981 p. 74&78

TABLE 2

NET INCOME(1) VARIOUS INDUSTRIES

	1972	1975	1977	1979	1980
			($ millions)		
1) Manufacturing(2)	2211	3584	4067	5443	5685
2) Mining(2)	319	702	678	2014	2114
3) Other Non-Financial(2)	1922	2708	2837	3267	3596
4) TOTAL NON-FINANCIAL (excluding Petroleum)	4452	6994	7582	10724	11396
5) Petroleum	804	1700	2263	3727	4806
6) TOTAL NON-FINANCIAL (including Petroleum)	5256	8694	9845	14451	16202
7) Line 5 as a % of 6	15.3	19.6	23.0	25.7	29.7
8) Line 5 as a % of 4	18.1	24.3	29.8	34.8	42.2

Notes:
(1) The figures shown are for companies having $10 million or more of total assets. For the years 1972 and 1975, the figures are based on a larger sample which includes all companies with $10 million and more in assets plus a sample of smallerindustries.
(2) The manufacturing, mining and other non-financial sectors exclude the petroleum component of these industries.

Source: PMA *Canadian Petroleum Industry 1980 Monitoring Survey* Table 1.4 p. 10.

This demonstrates that the petroleum industry was the strongest sector of the economy during the 1970s. Indeed, profits were so high that the federal government began to be concerned about both the net outflow of capital from Canada between 1975 and 1979 in the form of dividend and interest payments, or simply profit-taking, as well as with the possibility that the oil and gas companies were using these huge profits to buy into other sectors of the economy, thereby further increasing foreign ownership and control of the Canadian economy. [61] Indeed, this development was to become one of the major factors influencing policy makers designing the NEP.

i. The Inadequacy of Traditional Institutional Means of Control-- The National Energy Board

Notwithstanding these high profits, the oil and gas sector is one of the most highly regulated industries in Canada. This is evident in a number of areas. For instance, since March 1973 the export of oil (other than that involved in oil exchange agreements with the U.S. whereby Canada exports heavy oil to the western U.S. and imports an equivalent amount from the eastern U.S.) has been regulated. Furthermore, since September, 1973 when the price of domestic oil was frozen and an export tax was placed on crude oil, the federal government has set the domestic price of oil, and the size of the export tax. But long before these measures were implemented the NEB was established in

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[61] see EMR, National Energy Program (1980), p. 17&19

1959 to licence (subject to cabinet approval) all exports of natural gas and electricity. However, the effectiveness of this latter instrument, at least until the formation of Petro-Canada with its ability to conduct independent evaluations of oil and gas reserves, has been for the most part suspect. Approval of exports by the NEB is dependent on the board's determining an appropriate excess of supply over estimated Canadian requirements. However, until 1976, the board depended almost entirely for its estimates of oil and gas reserves on forecasts made by the private oil and gas companies. And the accuracy of their reports in the past has proved remarkably suspect. One needs only to refer to industry-based optimistic reports contained in the federal government's 1973 energy document, *An Energy Policy for Canada* to see this. This document stated that,

> Canada has more than enough energy resources available to cover her own use at least until the year 2050 and there is a chance that there may be substantial amounts of oil and gas surplus to domestic demand.[62]

Yet in its October, 1974 report the NEB, again relying on estimates supplied by private oil and gas companies, stated that Canadian petroleum resources were in much shorter supply than had been previously thought, and that Canada actually faced shortages in oil in the not too distant future.[63] The report estimated that Canada would need to import 1 million b/d of crude oil by 1982.[64]

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[62] EMR An Energy Policy for Canada Volume 1 (1973), p. 104

[63] see J. Laxer *Canada's Energy Crisis* (1st edition) Lorimer and Co. 1975 p. 144

What can one make of these widely fluctuating estimates? Although it is no doubt very difficult accurately to predict reserve levels, it had become quite obvious by 1974 that state regulation of the industry through the NEB was far from adequate. Indeed, as will be seen below, one of the major justifications for establishing Petro-Canada was so that the government could conduct independent assessments not only of Canada's oil and gas reserves, but also so that the government could more accurately assess operating costs of the private companies, thereby enabling it to levy more appropriate tax rates.

ii. The 1976-77 Frontier Land Regulations

Another (potentially) more important method of regulating the industry operating on federal lands has been through the frontier land regulations that were proposed in the mid-1970s. In 1970 the government had suspended the 1961 frontier oil and gas regulations as they were not succeeding in encouraging adequate exploration on the frontier. The period between 1951 and 1966 saw industry exploration expenditures north of the 60th parallel reach a mere $162.1million.[65] Between 1963 and 1969 exploration expenditures still reached only $218.6million,[66] while in western Canada they amounted to $1,186.3million[67] between 1963 and 1969. Furthermore, by 1969 only 9 wells had been drilled on the frontier.[68] Clearly the government wanted to reverse this trend. And as the reality of the tightness of world supplies became fully realized in 1973-74 (along with the four-fold price rise of international oil), frontier exploration became increasingly attractive to the federal government.[69]

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[64] IBID p. 145
[65] Oilweek, November 1, 1971, p. 29
[66] Oilweek, November 2, 1970, p. 39

The first important development involving federal land regulations was the suspension, on April 15, 1970, of the 1961 Canada Oil and Gas Land Regulations. Under these regulations work requirements had been extraordinarily lax, with annual lease rentals costing a mere $1/acre, and royalty payments consisting of a low 5% of production income for the first 3-5 years of production and 10% in subsequent years. Exploration permits were issued at no cost and for lengthy periods, allowing the holder to explore the designated area for 9-12 years. These permits also gave the holder the exclusive right to drill exploratory wells in the designated area. Leases were issued for even longer periods, ranging up to 21 years with provisions for renewal. If oil was found, permit holders were allowed to retain that portion of acreage normally surrendered to the crown for an additional royalty payment varying from 5%-40%, depending on the rate of production.[70] Clearly, at this stage the government was acting as a passive regulator and rent collector, placing little pressure on the industry to increase exploration on the frontier. But it must be kept in mind that the 1960s was a decade of energy abundance, which provided little incentive to the industry to search out and discover the extent of reserves to be found on remote and inaccessible federal lands. However, this attitude was to change drastically with the 1973 energy crisis. The first official indication of the government's recognition of the increasing importance of frontier supplies came in Prime Minister Trudeau's December 1973 policy statement:

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[67] Oilweek, April 20, 1970, p. 47

[68] Oilweek, January 19, 1976 p.3

[69] It should be added that the major discovery at Prudhoe Bay in Alaska in 1968 also provided a significant spur to exploration on the Canadian frontier.

> Canada must move and move immediately to develop its frontier and nonconventional sources of supply so as to be able to reach a situation that will permit self-sufficiency.[71]

With this concern came renewed efforts to establish effective regulations governing the frontier. Although the earlier proposed land regulations never became law (until Bill C-48 which has passed the third reading stage and will become law in 1982), they do reflect a more determined effort by the federal government to increase exploration on the frontier. However, as will be seen below, government determination was not to prove strong enough to withstand the intense lobbying of the petroleum industry.

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[70] Oilweek, March 8,1971, p. 14
[71] P.E. Trudeau House of Commons Debates 7th Session, 29th Parliament, December 6, 1973; p. 8479

Draft legislation for the new frontier land regulations was first tabled in the House of Commons on May 19, 1976. These regulations provided for more stringent work requirements through higher lease rentals (from $1 to $2.50/acre/year for a provisional lease-- depending on location), shorter permits and production leases, greater discretionary power for the Minister of Energy, Mines and Resources (for example, the power to order the drilling of wildcat wells), and the creation of a new petroleum tax, known as the Progressive Incremental Royalty (PIR), with a three year holiday from the PIR granted for discoveries made before June 30, 1980. In addition to the PIR on field profits, a new basic 10% royalty on all production profits was announced. However, the PIR did not come into effect until after the basic royalty, all current costs, capital costs and income taxes were deducted, and the operator had made a profit of 25% on its development investment, this being calculated on a field by field basis.

The regulations also required the earlier release of seismic data and other confidential data, gave special advantages to the state oil company, Petro-Canada, and required a minimum 25% Canadian ownership on producible property. The special advantages granted to the state oil company involved giving it the option to take up to a 25% interest in any permit granted a special renewal, and in any provisional lease issued during the exploration stage of the permit, without paying past exploration expenses. The objective of these "stricter" regulations was to double frontier exploration over the next three years.

Despite the fact that the proposed changes did not fundamentally alter the existing ownership patterns on the frontier, [72] the oil industry responded, for the most part with intense hostility and lobbying of the federal government to change the regulations (which they did). One explanation for the industry's reaction lies in the fact that only one-third of the frontier permits held at the time that the draft legislation was released satisfied the Canadian ownership requirements.

Although objection was not made to all aspects of the proposed legislation, concern was expressed over the advantages granted to Petro-Canada, the increased ministerial discretion, the PIR, and the required minimum Canadian participation requirements. In particular, it was the major oil companies, especially those with large holdings on the frontier, that were the most concerned. A spokesman for Imperial Oil claimed that,

> The combination of provisions for government equity participation and the progressive incremental royalty will dampen incentive to explore for the high-risk, high-prize prospects which could benefit Canada so greatly.[73]

And J.L. Lebel, chairman of the Canadian Petroleum Association (CPA), had this to say in response to the new regulations:

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[72] see Michael Crommelin, "Oil and Gas Rights on Canada Lands 'Plus ca change, plus...'"; in Northern Perspectives Vol. 5 No.4 1977

[73] Financial Post June 5, 1976, p. 33

> Being told by the government what to do is not consistent with the principles of free enterprise because government policy may not coincide with corporate objectives.[74]

However, even petroleum capital is not one homogeneous and monolithic entity with identical interests and demands. This is is illustrated by the fact that the independent oil companies did not object to the land regulations nearly as strenuously as did the majors. Independent Petroleum Association of Canada (IPAC) President Robert F. Ruben in fact seemed quite pleased with the regulations, stating that,

> We could not expect more.... In essence the PIR goes a long way towards the modifications of the original proposals suggested by IPAC. The overall fiscal aspect is favorable.[75]

However, intense industry lobbying did lead to the alteration of the regulations. The most notable changes (first announced in June 1977) involved the relaxation of the Canadian content requirements and the extension of the PIR holiday period. But other than that the altered regulations basically reflected those proposed in May 1976. The basic 10% royalty on oil and gas production income, as well as the PIR were retained. The only change to the PIR was that the holiday period was extended to cover discoveries made before October, 31, 1982. As before, the PIR was in essence a sliding-profits tax and was calculated only after expenses for exploration, development, and production income tax and the basic royalty were paid, and after a 25% "floor" rate of return had been made. In addition, any company which made a significant discovery was required to report it immediately to the federal government. If declared a significant discovery by the Minister, it was required that notification of this be sent "to each holder of an interest in lands to which the declaration relates."[76] This notification included Petro-Canada.

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[74] Globe and Mail, June 11, 1976,p. B5
[75] The Financial Post, June 5, 1976, p. 33

For the most part the special advantages granted to Petro-Canada were retained. For instance, Petro-Canada retained the right for one year (beginning August 3, 1977) to select for itself a maximum of 25% of the land known as reserve land on that date,[77] and, for a period of 7 years, to have the right to select up to 25% of the lands which reverted to the Crown after August 3, 1977.

There was some relaxing of the Canadian participation requirements. Under the altered regulations, when application was made for a special renewal permit or a provisional lease on the Canada Lands, and when the Canadian participation rate of the applicant was between 25% and 35%, a 10% interest was granted to Petro-Canada. If the Canadian participation rate was below 25%, a 10% interest plus an additional interest of 1% for each 1% that the Canadian participation rate falls below 25% (not exceeding 15%) was granted to Petro-Canada. As before, no payment was required of Petro-Canada for past exploration expenses.

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[76] Bill C-20, 30th Parliament, 3rd Session, 1977-78, p. 32
[77] IBID p. 49

As with the 1976 regulations, industry response was again rather hostile towards the altered legislation (Bill C-20), the major objections again being Petro-Canada's special privileges and the Canadian participation requirements. However, despite industry objections to the contrary, it would appear that requirements were still not effective enough. This is evident in the following table (Table 3) which shows that drilling on the frontier continued to decline throughout most of the 1970s.

TABLE 3

DRILLING PATTERNS IN ALBERTA AND ON FEDERAL TERRITORY

1973-1978

	# wells drilled		Exploration and land expenditures ($m)	
Year	Alberta	Federal Areas	Alberta	Federal Areas
1973	1,659	117	364.4	341.9
1974	1,369	76	416.2	370.9
1975	1,373	43	456.0	348.5
1976	2,026	24	657.5	351.2
1977*	2,319	20	1,298.0	380.2
1978	2,384	17	1,735.3	457.1

*Year in which the federal government introduced the special frontier drilling incentive known as super-depletion.

Source: CPA (cited in Globe and Mail October 15, 1979 p. 20.)

Despite these attempts to impose stricter regulations for the frontier, the 1976 draft legislation, and its subsequent amendments failed to pass first reading. What prevented the new regulations from becoming law? The most obvious reason lies in the intense industry lobbying against these regulations. But beyond this lies a more fundamental explanation, which argues that no matter how hard a government attempts to redirect exploration through indirect methods (i.e. work requirements, tax incentives, etc.) all will fail if the ultimate incentive, the actual existence of oil in significant quantities, fails to be demonstrated. In 1976-77 there had been no significant oil discoveries on the Canadaian frontier.[78]

iii. The Fiscal System

Although not very effective in meeting their objective, the federal oil and gas regulations were one method of attempting to control the petroleum industry. A much more significant, indeed the most important, form of regulation which the state has employed in an attempt to control the private petroleum industry has been through the fiscal system.

Although this system has changed throughout the 1970s (and most dramatically with the NEP), the major elements of it (for most of the 1970s) were as follows: as with all corporations, the petroleum industry was taxed at a standard rate of 36%. However, there were a number of important deductions which could be made from gross income, thereby, in effect, significantly reducing the actual rate of corporate taxation. Beginning in May 1974 automatic depletion (equal to one-third of taxable income) was replaced by earned depletion, "whereby companies would have to earn the right to deduct up to (one-quarter) of their production profits by continuing to explore and develop."[79] In addition, all Canadian exploration expenses could be written off in the year incurred at a rate of 100% and development expenses (after November 1974) at a rate of 30%. Effective January 1, 1976 a Resource Allowance was introduced which was the equivalent of a tax deduction of 25% of gross income. This measure was intended to replace the provincial royalty deductibility which had been discontinued as of May 1974, and it alone had the effect of reducing the corporate rate of federal tax on resource income to 27%. Finally, an important frontier allowance was that of "super depletion", which was introduced in 1977 and expired on March 31, 1980. This provision allowed for the deduction of two-thirds of the cost of exploration wells drilled on the frontier for that portion of the expense exceeding $5 million, and it could be applied without limit against income from any source.[80]

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[78] Both Hibernia and Kopanoar were discovered in 1979.

What has been the effect of this fiscal system? First, it has encouraged the re-investment of profits through the generous deductions allowed for exploration and development expenses and earned depletion. However on four counts the results of these measures have been unsatisfactory. First the federal government has been greatly disappointed with the declining rate of exploration on the frontier during the 1970s, despite super depletion. A second cause for dissatisfaction has emerged due to the federal government's growing concern to increase its share of the revenue from the oil and gas sector. As of 1979 this share stood at only 8.8%.[81] The NEP documents this dissatisfaction on the part of the federal government:

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[79] EMR An Energy Strategy for Canada (1976) p. 156
[80] EMR "Taxation and Revenue Sharing" November 1979 p. 4-5

> The investment incentives in the federal tax system have significantly reduced the effective rate of taxation for most firms, and thus have reduced the federal government's share of resource revenues. Despite a nominal federal tax rate of 36%, the effective rate rate since 1974 has been about 10%, less than one-third of the nominal rate.[82]

Third, the generous nature of past tax incentives (before the NEP) has provided the larger firms in the industry with all the funds they required to expand from internally-generated cash flow. This has been deemed undesirable as it allows foreign-owned firms to expand without having recourse to Canadian capital markets.

> There is thus little financial pressure on the industry as a whole to involve new Canadian participation. As the industry's revenues increase, it could expand into other sectors of the economy.[83]

This concern with the foreign owned energy firms buying into other sectors of the economy and thereby increasing the degree of already-high foreign ownership of the Canadian economy as a whole, is a major concern of the federal government and one that will be dealt with more thoroughly in the chapters analyzing the NEP. The final concern expressed by the federal government is one related to the fiscal measures which have favoured the established companies and by doing so have increased the level of concentration within the industry. This is clearly expressed in the NEP's assessment of the past fiscal tax measures: "Reinforcing the impact of buoyant cash flow, the system of tax incentives inadvertently fostered concentration in the industry and, with it, foreign control."[84] As will be seen below, the expanded role designed for Petro-Canada and the incentive schedule (which discriminates in favour of Canadian owned and controlled companies) outlined in the NEP attempts to reduce the level of foreign concentration in the oil and gas sector.

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[81] Maclean's October 11, 1980, p. 32
[82] EMR NEP (1980) p. 12
[83] IBID, p. 19

Thus far in examining the strategies which have been pursued by the federal government in regulating the petroleum industry, the state has been portrayed as a rather passive entity. However, with the formation of a state oil company, its role was to change fundamentally.

Petro-Canada

It is no exaggeration to state that the most significant development in the state's method of regulation of the petroleum industry which occurred in the 1970s was the establishment of a state oil company-- Petro-Canada. As is evident from the above, prior to 1976 the state had undertaken almost no direct involvement in the energy sector. In fact, in 1973 less than 1% of petroleum assets were owned by the state. What were the factors that led the state to assume the role of a direct participant in the industry? Furthermore, how has the existence of a state oil company affected the accumulation process, and has this fundamentally altered the prevailing capitalist relations of production? Answers to these last two questions will be postponed until analysis of the NEP has been undertaken, as the NEP provides for such a significant expansion of Petro-Canada that a more accurate hypothesis can be postulated at that time.

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[84] IBID p. 19

Although the idea of a state oil company was first mentioned as early as 1970, it was soon dropped due to Cabinet division over the idea, and opposition from other departments worried about how the existence of a state oil company would affect their own influence with the Cabinet in energy-related matters. Senator Jack Austin, former deputy Minister of Energy Mines and Resources, has claimed, for instance, that "Simon Reisman (deputy minister of finance) resisted. The harassment was just unbelievable. I was infringing on his territory."[85] In addition Austin claimed that the NEB, then the Cabinet's primary energy policy advisor, was also opposed to it.[86] Another factor mitigating against the formation of a state oil company at this time was the fact that the urgency for such a company was simply not present. In 1970 oil was still cheap (although the price was beginning to rise on international markets) and supply was judged plentiful in Canada. Furthermore, there was little fear over security of supply, although the 1967 Arab-Israeli war was not long over. Hence it was not until late in 1973 that Prime Minister Trudeau announced the government's intention to form a national petroleum company.

On the surface the government's decision appears to be an attempt to appease NDP demands to establish such a company. Although the vulnerable position of the Liberal government in 1973, due to its minority position (with the NDP holding the balance of power), most certainly did influence the timing of the government's announcement of its intention to form a state oil company, in itself this explanation is grossly inadequate. The legislation officially creating Petro-Canada was not actually passed until July 1975, with the company becoming operative on January 1, 1976. By this time the Liberals, thanks to their majority win in 1974, no longer needed to listen to, much less heed NDP demands. Without doubt Petro-Canada is the product of a Liberal government.

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[85] Elaine Dewar "O Petro-Canada We See Thee Rise" City Woman Summer 1981

[86] IBID p. 18

Why, then, was such a sudden departure from past policy adopted? For it is clear from the Petro-Canada Act (Bill C-8) that by granting the state oil company such a broad mandate-- to explore the frontier, participate in research and development and state-to-state energy purchases, and eventually to establish refineries and gas stations, etc.-- that Ottawa seriously intended to become a major player in the petroleum industry.

There are a number of reasons which explain the formation of Petro-Canada. However, before examining them, it is first necessary to emphasize that Petro-Canada was never intended to displace private capital, but only to supplement it. This is apparent from a number of official government sources. In referring to the role of the proposed national petroleum company, Prime Minister Trudeau in 1973 stated that,

> It is not, however, intended in anyway to displace the private sector.... Nor is it intended to discourage investment by foreign companies which will continue to be welcome.[87]

The 1976 energy document, *An Energy Strategy For Canada*, states that:

> Petro-Canada is not expected to replace private corporations engaged in the search for Canadian oil and gas reserves. Rather it is intended to act as a catalyst and to supplement private sector activity in Canada's frontier areas. [88]

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[87] House of Commons Debates December 6, 1973 7th Session 29th Parliament p. 8423

[88] EMR An Energy Strategy For Canada (1976) p. 27

This assurance that Petro-Canada was present only to supplement and not eliminate private capital was also expressed by the first Chairman and President of Petro-Canada Maurice Strong, who emphasized that "our presence relieves the pressure for the nationalization of the whole industry."[89]

Returning to an explanation of Petro-Canada's formation, it is readily apparent that there are a number of factors which explain its creation. Foremost among these is the fact that with the sudden quadrupling of the international price of oil in 1973-74, and with oil imports exceeding exports by 1975, the Canadian economy, particularly the weak manufacturing sector (much of which was already heavily protected from the full force of foreign competition), became directly vulnerable to the impact of the OPEC price increases. Petro-Canada was created in part to encourage the exploration for and development of domestic supplies, particularly on the frontier where private industry's exploration efforts had been declining so as to ensure that central Canadian capital (and consumers) maintained a reliable supply of such a crucial commodity. Larry Pratt writes that,

> the decision to create a state oil company can be seen as a step to protect the interests of oil-dependent manufacturers and other industries

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[89] Globe and Mail January 21, 1976 p. B7 and Oilweek, January 26, 1976, p. 7

> concerned over the security of their fuel supplies.[90]

The government's concern with the low level of frontier exploration was expressed by Energy Minister Donald Macdonald in a speech in the House of Commons in November 1974.

> if there should be any substantial drop in exploration, particularly in the more productive areas of Canada-- and I am talking about the north and the offshore-- this would be a matter of grave concern.[91]

But the cost of frontier exploration was extremely high, and with Alberta's conventional oil fields offerring the prospect of easier and quicker profits, private capital's investment, not surprisingly, was focused in declining proportions on the frontier. Thus Petro-Canada was formed to fill a vital need-- to provide scarce capital to heavily capital-intensive ventures such as frontier exploration projects, as well as the tar sands projects. (Petro-Canada took over the government's 15% interest in the Syncrude Project.) Both types of projects were ones which were high risk, expensive and thus in need of secure and reliable investors. By providing scarce and necessary venture capital, the state oil company was filling a void left by private capital. R. Duvall and J. Freeman write in explaining this type of state action that,

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[90] Larry Pratt, "Petro-Canada" in A. Tupper and G.B. Doern *Public Corporations and Public Policy in Canada* The Institute for Research on Public Policy Montreal 1981.
[91] House of Commons Debates, 1st Session, 30th Parliament, 1974, p. 1342

> Agencies of a capitalist state take on direct responsibility for the production of goods and services, in large part, because it is believed the private sector is unwilling or unable to do so, or because in doing so the private sector is generating some highly undesired patterns of development....[92]

Closely related to Petro-Canada's function as a supplier of much needed capital in high-risk ventures, is the role Petro-Canada has taken in joint ventures with many of the major oil companies. To date, Petro-Canada has (to cite only two examples) been involved in joint ventures with Gulf, Imperial Oil and Panarctic Oils in the High Arctic (with Gulf and Imperial approaching Petro-Canada)[93], and Chevron to the south of Sable Island. Indeed, virtually all of the money which Petro-Canada spends on exploration and development is done through joint ventures. As well, although the petroleum industry by no means welcomed Petro-Canada with open arms in 1976, there is some evidence that not all of the industry regarded it with the hostility as is commonly believed. For instance, many of the criticisms of Petro-Canada have centred around the special advantages that have been given to the state oil company in the frontier oil and gas land regulations that were proposed in 1976-77. Indeed, it is likely that much of the industry, at least privately, welcomed Petro-Canada, not only as a new source of capital, but also as a partner which could well reduce the risk of joint ventures. This is particularly true for high-risk frontier ventures and the oil sands plants where the capital costs are very high. Only a few (predominately foreign-owned) firms are able to raise the necessary funds for projects such as these, the rest being forced to raise the capital on international money markets where interest on such high-risk loans is very high. Operating in a joint venture with a state oil company could not only reduce the amount of capital needed to be supplied by the private firm (thereby allowing it to raise more of it internally), but if it did need to borrow on a private money market, the presence of a low risk state partner might reduce the risk in the eyes of the lender and therefore lower the rate of interest charged on the borrowed funds. In reference to this, but in another context, Petter Nore speculates that,

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[92] J. Freeman and R. Duvall "The State and Dependent Capitalism" in International Studies Quarterly March 1981 Vol. 25 No 1 p. 112
[93] Globe and Mail August 5, 1976 p. B1

> If... the mere presence of the government in an operating committee means that funds can be borrowed on the money market at a discount, then the advantage to private industry of such an agreement becomes even clearer.[94]

It has also been the objective of the government, through the formation of Petro-Canada (and the new frontier oil and gas regulations which discriminated in favour of the state oil company), to increase Canadian participation in the oil and gas sector. This was expressed in the 1973 and 1976 energy documents, as well as in the following excerpt from EMR's 1977-78 Annual Report which refers to the new frontier land regulations which had come into effect in August 1977.

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[94] Petter Nore "The International Oil Industry and National Economy Development: The Case of Norway" in S. Picciotto and J. Faundez *Nationalizations in Third World Countries* 1979 p. 181

> A crucial aspect of energy policy is to maximize Canadian content and participation in exploration and development. Petro-Canada, Canada's national oil company, has been given a first option for exploration agreements in frontier and offshore oil and gas areas over the next seven years. In addition, Canadian content in frontier oil and gas exploration and development will be strengthened by Petro-Canada's option to acquire up to 25% working interest on lands where no significant discoveries have been made.[95]

However Canadian participation was not to be increased solely through Petro-Canada's presence, but also through Petro-Canada's participation in joint ventures with Canadian firms. This is evident in *An Energy Strategy For Canada*, where it is stated that:

> Exploration for and development of Canadian frontier resources will require capital on a scale not normally available to most Canadian owned companies. Petro-Canada can play an important role in facilitating the participation of such companies in the search for new Canadian oil and natural gas supplies. In the process it will increase the overall level of exploration activity, increase Canadian participation in the development of Canadian resources and provide an invaluable source of knowledge and insight into both the operation of the petroleum industry in Canada and the future prospects for Canadian oil and gas reserves.[96]

This, of course, has not materialized. Only large Canadian firms can afford to work, even in conjunction with Petro-Canada, on the frontier. This statement also contains another indication of the government's rationale behind forming a state oil company-- to provide a "window on the industry." The presence of a state oil company would provide for the first time an independent source of information for the government on oil and gas reserve estimates and on costs of production, thereby enabling it to better direct the rate of exploration and development (particularly on the frontier), and to levy taxes on the industry. Another reason explaining the decision to create a state oil company can be found in the governments fear that the MNOC's could (or would) no longer reliably supply imported oil to Canada. This concern was expressed by Petro-Canada's first chairman, Maurice Strong, when he explained that,

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[95] EMR Annual Report, 1977-78 p. 15

[96] EMR An Energy Strategy For Canada (1976) p. 27

> it surely would be unwise to continue to rely solely on decisions made outside the country, over which we have little control and may have little influence when the pressures mount during future periods of short supply.[97]

This fear was to be proven warranted as Exxon's unilateral announcement of a 25% reduction in supplies to all subsidiaries (including Imperial Oil of Canada) in the midst of the 1979 Iranian revolution graphically demonstrated to the government how powerless it was in the face of decisions made by parent companies outside national boundaries. Thus Petro-Canada was also founded to give the federal government an alternative supplier (directly under its control) of imported oil.

Although underwriting the risk of private oil capital, increasing Canadian participation in the oil and gas sector, providing a "window on the industry", and increasing the exploration for oil and gas supplies so as to provide central Canadian industry with reliable supplies, are all important reasons explaining the decision to create a state oil company, there is one additional factor which must be noted, that of bureaucratic politics. As was argued above, it is reductionist and overly simplistic to view the state as acting at the behest of any one fraction of capital. Indeed, by showing that the state at times is forced to work against the immediate interests of certain fractions of capital (through, for example, keeping the domestic price of oil well below world levels[98] while it was clearly in the interests of oil capital to have the price much higher), it has been demonstrated that there is necessarily a certain amount of autonomy to state action. An examination of the influence of bureaucratic politics on the creation of Petro-Canada reinforces this argument.

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[97] cited in M. Gordon op cit p. 89

The events of 1973, besides forcing a sudden change in Canadian energy policy, also served greatly to increase the importance of the oil and gas sector. Although undeniably of great importance prior to the crisis (indeed much of the western industrialized countries economic growth in the 1950s and 1960s was premised on the plentiful and cheap supply of oil and natural gas), the energy crisis further enhanced its value as it became painfully obvious to the government just how dependent the economy was on oil. Furthermore, the increasing price of Canadian oil was bringing enormous wealth to the major oil producing province, Alberta, thereby greatly increasing its economic clout. The government would have to move immediately if it were to establish any sort of toe-hold of control in the door to the industry. In reaction, then, the federal government took this opportunity of energy crisis and public mistrust of the multinational oil companies to expand its influence in the oil and gas sector.

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[98] the average Canadian price as a percentage of the world price between 1974 and the first 9 months of 1980 was 60.6%. This calculation was made from Table 4 in Wendy Dobson's *Canada's Energy Policy Debate* C.D. Howe Institute 1981 p. 42.

From within the bureaucracy the major impetus to create a state oil company came from EMR, namely its deputy minister, Jack Austin and later Wilbert Hopper and Joel Bell. The idea to create a national oil company had been debated within the bureaucracy for a number of years. In 1971 the government had commissioned a study, headed by consultant Wilbert Hopper of A.D. Little, to examine state oil policies and companies in other countries [99] (Interestingly enough the recommendations were neutral.) Also in 1971, the deputy Minister of Energy, Jack Austin, was advocating the formation of a national petroleum company.[100] Finally, the 1973 energy document, *An Energy Policy For Canada Phase 1*, explored the pros and cons of a state oil company, in the end making no recommendations.

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[99] see Elaine Dewar op. cit. p. 18
[100] see Elaine Dewar op. cit. p. 17-18

Each of these studies or recommendations, merely by the fact that they were commissioned, demonstrates the growing interest within the federal bureaucracy in a state oil company. But mere bureaucratic pressure was not enough to make a state oil company a reality. In the end it took the appropriate economic (the urgency created by the 1973 oil crisis) and political (NDP demands that the minority Liberal government at the least establish a national petroleum company, and more importantly, public mistrust of the multinational oil companies) circumstances, in combination with the bureaucratic pressure (the ideas of Austin and later a converted Wilbert Hopper and Joel Bell[101]) to make Petro-Canada a reality.

FEDERAL-PROVINCIAL RELATIONS AND ENERGY POLICY

Although federal-provincial conflict has been endemic to the Canadian political scene for decades, those disputes involving oil and gas only became of a protracted and serious nature beginning in 1973. The foremost reason, at least initially, for this conflict lies in the 1973 decision made thousands of miles away by an organization (OPEC), then little known to most Canadians, to quadruple abruptly the price of oil. Although the price had been rising in the years between 1970 and 1973, it was the combination of the four-fold price increase, along with an embargo of selected western nations (and the threat to embargo others) that caught the entire western world off guard and sent most countries scurrying desperately for make-shift energy policies. Canada was not exempt from these developments, and was forced into some crucial policy changes which had an important impact on federal provincial relations.

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[101] see Elaine Dewar op. cit. p. 18

In the initial stages of the crisis Canadian and world attention was focused on supply. However, it was not long before concern turned to that of price, as hundreds of billions of dollars were involved in a massive and rapid transfer of wealth from western industrialized countries to a dozen or so predominantly Middle Eastern sheikdoms. However, in Canada the concern was not so much with the transfer of wealth to outside the country, but within the country,[102] from the densely populated consuming provinces to (basically) one major oil producing province-- Alberta. It is here in the fact that suddenly oil was giving rise to potentially enormous financial surpluses that lies the root of the federal- provincial conflict over oil and gas that has become a constant feature of Canadian politics in the 1970s.

It would not be unfair to argue that the 1970s have witnessed, somewhat ironically perhaps, the gradual usurpation of provincial powers in the resource field by the federal government. As is commonly known, section 109 of the BNA Act grants ownership of resources to the provinces.

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[102] It was not until 1975 that Canada (again) became a net importer of oil.

However, the problem lies in defining what ownership entails. For the sake of argument, one might suppose that it entails the right of the province to set the domestic price and production levels, and perhaps even the right to approve export sales. However, others argue that because export sales involve trade with another country (and clearly the BNA Act designates control of trade and commerce to the federal government-- section 91(2)), and because of federal control over interprovincial trade, that the federal government has the right to control the export of resources and the export price, as well as the price in all provinces other than the producing ones.

Regarding control, the federal side has won out on all of the above counts, with the exception, for the present, of controlling production levels. A brief perusal of the major elements of federal energy policy instruments throughout the 1970s will confirm this claim. In March 1973 controls were placed on the export of crude oil, in September the domestic price was frozen at $3.80/barrel, and a tax was placed on all oil exports, in May 1975 the Petroleum Administration Act (PAA) became law, authorizing the federal government to set the domestic price of oil and natural gas in the absence of an agreement with the provinces, and finally, in 1976, Petro-Canada was established, this being intended as a major federal policy instrument of control in the oil and gas sector. All of these measures have served significantly to reduce the producing provinces' control over their resources, and all have been vigorously contested by the Alberta government.

Although an agreement was reached at the March 1974 First Ministers' Conference on Energy to raise the price of domestic oil to $6.50/barrel, the period immediately following this agreement saw increasing discontent from Alberta concerning oil and gas pricing. In particular, after the doubling of OPEC's prices in 1979, the issue became much more contentious and conflictual. A pricing agreement was almost reached during the Clark government's short term in office,[103] but it was not until September 1981 that one was finally reached with Alberta.[104]

Although prices were restrained by the federal government throughout the 1970s, there nevertheless were increases. Indeed, by early 1978 the Canadian price had reached 76%[105] of the world price. However, after the 1979 doubling of the world price of oil, Canadian prices were once again thrown far out of line with the world price, thus ensuring that the conflict between Ottawa and Alberta over price and revenue-sharing would continue. Extensive negotiations between Alberta and the federal government took place throughout the summer of 1980, however no agreement was reached. In its July 29, 1980 pricing proposal, Alberta demanded 75% of world price for conventional oil by January 1, 1984. Although the federal government did not object to the 75% figure, where they did differ was over the rate of increase (and, importantly, the division of revenue). The federal proposal as outlined in the NEP would have raised the well-head price of crude by only $10.25/barrel, while Alberta, in the same period wanted prices to rise by $22.50 or at more than twice the proposed federal rate.[106]

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[103] More will be said regarding Clark's attempts to reach an energy agreement with Alberta below.

[104] Similar agreements have also been reached with Saskatchewan (October) and British Columbia (September) in the fall of 1981. The new federal-Alberta agreement will be examined in chapter 3.

[105] Wendy Dobson *Canada's Energy Policy* C.D. Howe Institute (1981) Table 4 p. 42

However the disagreement involved much more than just price. More importantly, it also entailed the contentious issue of the division of revenues. The origins of this aspect of the dispute can be traced to 1974 when Saskatchewan and Alberta raised their royalty rates, and in response the federal government declared that provincial royalty payments would no longer be deductible from federal income tax. With Alberta's high royalty rates and the federal decision, the industry was effectively squeezed and predictably began withdrawing investment from the province. Eventually both the province and the federal government backed down in the face of this "capital strike", with Alberta refunding that portion of the Alberta Corporate Tax arising because of the nondeductibility of royalties, as well as the amount paid by the oil companies in federal corporate tax due to the non-deductibility of royalties (to a maximum of $1 million.) The federal government, in turn, backed off by introducing, in June 1975, a Resource Allowance deduction under which the oil companies could deduct 25% of their production income from income tax (based on production profits before deduction of exploration and development costs.) In this instance the federal government was forced to back down. Not having any alternative means of generating investment (such as a state oil company), it had no alternative but to concede to the multinationals' terms.

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[106] see EMR NEP (1980) p. 26; and "Alberta's Energy Package Proposals" 1980 p. 1

There is little doubt that, in essence, the conflict between Ottawa and Alberta, is not only one of price or revenue-sharing, but also of power. Disagreements over price, the export tax etc., are certainly important in themselves, but the conflict also exists on another level--that concerned with power. Since 1973 Ottawa has greatly expanded its control over the oil and gas industry and Alberta has resented and opposed this. In protest Lougheed consistently refused to agree to federal pricing proposals, to give the go-ahead to the oil sands project at Cold Lake (or the Alsands project), and in the summer of 1981 cut back Alberta's production of oil.[107]

Even more fundamental to an explanation of the federal-provincial conflict over energy than viewing it as a power struggle, is understanding what motivates each level of government. Certainly there is some truth to the argument that relatively autonomous bureaucratic factors have been partly responsible for the federal government's actions to expand its control in the energy sector since 1973. This was argued in the last section. However, one must also look to the political bases of support of each level of government more fully to understand this conflict. In essence, while one must not oversimplify, or overemphasize the importance of the political, the federal government has a broader mandate to fulfill than that of the Alberta government. And with its (the Liberal government's) politcal base of support anchored in Canada's industrial heartland of southern Ontario and Quebec, it has not surprisingly acted since 1973 to protect those areas from the full and immediate impact of international oil price increases. Thus it has maintained the Canadian price of oil below the level of world price so as to guard against inflation, protect the individual consumer, and, most importantly, to protect industrial capital, thereby giving it a competitive advantage in both domestic and international markets. The current Minister of Industry, Trade and Commerce, Herb Gray, speaking in the fall of 1980, has admitted this strategy.

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[107] With the September 1981 pricing agreement between Ottawa and Alberta, this order was rescinded.

> There is no reason Canada shouldn't profit from its energy resources for its own needs. Whether that be to give our manufacturing sector an advantage over our competitors or to stimulate our equipment manufacturers or to ensure the country's energy future. National energy policy is all that.[108]

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[108] Globe and Mail September 24, 1980 p. B4

From this it is but a short step to argue that the energy conflict can be explained as that taking place between two fractions of capital, with the federal government representing industrial capital and the Alberta government, oil capital. Although to portray the federal-provincial dispute in this manner is to oversimplify reality, there is no doubt that, on the whole, federal energy policies during the 1970s (for example, maintaining the domestic price of oil well below world prices, and creating a state oil company) have worked to the benefit of central Canadian capital, while the Alberta government, fighting for a price much closer to that of the world price has undoubtedly been promoting an objective which is welcomed by the oil industry (based primarily in Alberta). Despite this, however, one cannot simply portray this dispute as that between fractions of capital for a number of reasons. To begin with, to do so would assume that a fraction of capital (for example, oil capital in Alberta and industrial capital at the federal level) had "captured" control of the state. This would rule out any possibility of autonomy in state action. But if this were so, why did the Canadian Manufacturers Association (CMA) support world prices towards the end of the 1970s? J. Edward Newall, President of the CMA recently stated that,

> No one is doing us a favour by artificially holding down oil prices. The Government says Canada should reach 85 per cent of international prices by the mid-1980s. We could support a faster upward move, especially if that is needed to break the impasse

> between Ottawa and Alberta and provide sufficient cash flows for the oil and gas industry to move ahead on big projects such as Cold Lake and Alsands.[109]

If industrial capital is dictating federal policy (at least in the sphere of energy) why does one of its major components (the CMA) oppose that policy?

There are problems with this analysis at the provincial level as well. For one thing, as an oil spokesman has said, "Alberta's royalties have for years been exorbitant,"[110]. Since the Lougheed Conservatives came to power Alberta's royalty rate for conventional oil has increased from approximately 17% to 45%.[111] Furthermore, Lougheed's refusal to give the go-ahead to the oil sands projects has not pleased the companies involved. Indeed, in February 1981 Alsands went to the Alberta government requesting a separate deal for its oil sands project which would allow it to proceed with the project. At the time Joe Mariash of the Alsands consortium stated that,

> If the country is at all serious about self-sufficiency and the projects have to go ahead to achieve it, and there's no way of resolving the dispute, maybe the Alberta government has to look at approving the oil sands projects separately. That's our view.[112]

But the Lougheed government refused Alsands' request.

Other indications of a weakening of the oil industries' support for the Lougheed government's position lie in Chieftain Development's request for Heritage Fund money to enable it to meet the NEP's Canadianization requirements.[113] Furthermore, in February 1981 the President of the CPA, J.M. MacLeod suggested that Alberta was demanding too much of the available oil revenues and that Alberta's royalty structure must be lowered on higher priced oil.[114] Although there is still plenty of criticism of the federal government, and specifically of the NEP, this is changing. As one top oil industry spokesman has said recently:

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[109] Globe and Mail November 15, 1980 p. B 18
[110] Edmonton Journal February 24, 1981 p. A4
[111] Financial Post December 27, 1980 p. 9
[112] Edmonton Journal February 17, 1981 p. A1

> There's going to be a perceptible movement towards a better balance in our criticism of governments--plural. You're going to see the burden of opprobrium, as it were, spread more evenly.[115]

All of this evidence seriously undermines the credibility of the explanation which sees federal-provincial conflict over energy as one solely between different fractions of capital opposed to one another. With this type of explanation, politics and bureaucratic factors are reduced to that of epiphenomena, surely an unrealistic simplification of reality.

A more useful explanation of federal-provincial conflict, but one that will only be briefly mentioned at this point, as the full impact of this factor can only be seen in the NEP (and to a lesser extent during the period of the Clark government) which is beyond the scope of this chapter, is that of another Marxist conception-- that of fiscal crisis. Quite simply this analysis sees contemporary capitalist societies undergoing a fiscal crisis-- this being defined by James O'Connor as the "tendency for government expenditures to outrace revenues."[116] With a deficit that has increased from approximately $2 billion in 1975 to almost $14 billion in 1980, the Government of Canada has not escaped this trend. Of course all capitalist economies have been running deficits for years, this being fundamental to the economic strategy which has dominated western government planning since WWII (with the recent exception of Margaret Thatcher's Britain). However, it is the combination of expenditures exceeding revenues, along with a contracting or at the least stagnant economy, that has thrown the Canadian economy into a state of crisis. Thus the federal government has made greater attempts, beginning in 1974, to acquire an increased portion of the revenues from one of the few growth sectors of the 1970s-- the oil and gas sector. This can be most clearly seen in the 1974 decision to disallow the deductibility of provincial royalty payments from federal income tax and in the government's commitment to higher prices for Canadian oil, which was expressed by Prime Minister Trudeau at the April 1975 First Ministers' Conference.

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[113] see Richard Gwyn "Lougheed an oil industry 'enemy'?" Edmonton Journal February 24, 1981 p. A4
[114] Globe and Mail February 28, 1981 p. 4
[115] R. Gwyn op cit p. A4

> my colleagues in the government and I have come reluctantly to believe that the price of oil in Canada must go up-- up towards the world price. It need not go all the way up. We should watch what happens to the world price and decide from year to year what we should do.

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[116] James O'Connor *The Fiscal Crisis of the State* 1974 p. 2

The 1976 energy document, *An Energy Strategy for Canada* also outlined the necessity of moving "domestic oil prices towards international levels,"[117]. And Canadian oil prices were moving towards international levels in this period. As mentioned above, by 1978 Canadian well-head prices were 76% of the world price. However, with the Iranian revolution and the doubling of the international oil price (this being a much greater absolute increase than the 1973-74 increases) the government was forced, for the moment, to abandon its efforts to price domestic oil near that of international oil. Thus, in the period between 1974 and 1980, the existence of moderate fiscal crisis did have some, albeit not the most important, influence on federal energy policy. However, its importance in influencing policy was growing in the latter half of the 1970s, culminating, as will be seen shortly, with the latest government energy policy-- the NEP. The final section of this chapter will now briefly examine the energy policy of the Clark Conservative government.

CLARK'S ENERGY POLICY

Although the Clark government held power for a mere nine months it is nevertheless important to examine the Conservative's energy policy as it did represent a significant departure from that developed by former Liberal administrations (and eventually was a major cause of the Government's defeat). More importantly, however, it demonstrates the importance of the structural barriers which his government faced, and which eventually forced him to make significant alterations to his energy policy (notably in regards to Petro-Canada).

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[117] EMR An Energy Strategy for Canada (1976) p. 126

During the 1979 election campaign the Conservatives made much of the wastefulness of the Liberal government's of recent years, promising to reduce the number of government employees and to eliminate many of the unnecessary Crown Corporations which had multiplied during the Liberal years in power. Of principal concern was the state oil company--Petro-Canada. The Conservatives had always opposed Petro-Canada since its incorporating legislation was debated and enacted in 1975. In June 1976, Sinclair Stevens at a press conference, held after speaking to a taxation seminar of the Canadian Petroleum Tax Society in Calgary, voiced his party's objections to the state oil company, saying that: "The public company is not needed and is causing complications which we can do without."[118] Two years later Calgary Centre MP Harvie Andre, speaking in the House about dismantling Petro-Canada stated that: "We are talking about the same people who run the Post Office, for goodness sake. If they cannot deliver a letter, how the heck are they going to find oil and gas."[119] And in the 1979 election campaign, Clark officially declared that Petro-Canada would be dismantled.

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[118] Oilweek June 28, 1976 p 21

[119] June 20, 1978 3rd Session 30th Parliament House of Commons Debates p. 6585

In order to understand the Conservatives' rather sudden hostility towards state involvement in the economy, it is necessary to return to their 1974 election defeat. After all, it was under (federal and provincial) Conservative governments that well accepted institutions such as the CNR and Ontario Hydro were formed. So why the change in party policy? Basically the change can be traced to 1974 when the Conservatives suffered a severe election defeat after proposing massive state intervention in the economy to implement wage and price controls. In reaction to this defeat, the ideology of the right wing, premised upon Friedmanite economics, began to accede to dominance within the party. This was reflected in the election of right winger Robert Coates as Party President and increasingly anti-statist stands on government involvement in the economy. As Jeffrey Simpson writes, "Having seen their proposed state intervention in the economy rejected by the voters, the Conservatives retreated to hard-line, free enterprise positions."[120]

After winning the 1979 election, Clark, partly in observance of party ideology but more importantly in an attempt to shake his image as indecisive and weak, in the face of considerable internal opposition, was determined to keep his election promise to dismantle Petro-Canada. However he was to encounter numerous problems-- from within the federal Conservative party, the provincial wing of the party (notably from Ontario Premier William Davis), public opinion, and even, ironically, from the petroleum industry.

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[120] Jeffrey Simpson *Discipline of Power* Personal Library 1980

To begin, by the time the Conservatives took office the hostile attitude of the industry toward Petro-Canada had abated considerably. Although still opposed to Petro-Canada's special advantages on the frontier, the state oil company had become an accepted institution. In the spring of 1980, the CPA stated that it viewed Petro-Canada as "a fact of life" and would accept it as part of the industry as long as it "is not given privileges and if it's treated like any other (private) corporate entity."[121] And Phelps Bell, an Imperial Oil executive in Ottawa stated that Imperial can "live with PetroCan or without it."[122] Indeed, because virtually all the money which Petro-Canada has spent on exploration and development was done through joint ventures with other companies, Petro-Canada was increasingly viewed by much of the industry as a necessary source of federal money for highly capital intensive ventures and as an entity to reduce risk. Carl Nickle, President of Conventures Ltd. in Calgary, has said that, "PetroCanada's partnership with Imperial, Dome, Sun Oil and Chevron on the same basis as other private companies is an indication of the acceptance, though sometimes reluctant, of the role of the government oil company."[123] Furthermore, Nickle himself was against selling off Petro-Canada, feeling that "The money it would take to buy the company could be better invested in new projects for the discovery of new energy."[124] Thus, by the time Clark came to power a significant part of the industry actually wanted to retain Petro-Canada.

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[121] Globe and Mail April 17, 1980 p. B1
[122] The Financial Post June 9, 1979 p. 4

Not only did the industry accept Petro-Canada, but the public did as well. A July 1979 Gallup Poll found that 48% of the respondents were opposed to selling shares of Petro-Canada to the private sector, with only 22% in support of the idea. [125] The Iranian revolution and the subsequent loss of Iranian supplies also contributed to Clark's problems as it enhanced the public's apprehension about energy security. Furthermore, Exxon's decision unilaterally to cut back 25% of its supplies to Imperial in early 1979 rekindled the public's distrust of the major (predominately foreign owned) oil companies and increased their desire to see a strong state oil company. Even within his own party, support for Clark's position on Petro-Canada was tenuous. Jeffrey Simpson's study of the Clark government's short stint in power, *Discipline of Power* , reveals just how little support Clark had from his own Cabinet. Senior members such as the Secretary of State for External Affairs, Flora MacDonald, Finance Minister John Crosbie, David

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[123] The Financial Post June 9, 1979 p. 4
[124] IBID p. 4
[125] Jeffrey Simpson op. cit. p. 164

MacDonald and eventually even Energy Minister Ray Hnatyshn all supported the retention of Petro-Canada.[126] It was pressure from all these sources that led the Conservatives to a major policy change regarding Petro-Canada. This was evident in Hnatshyn's announcement in mid-August 1979 that due to circumstances which had changed drastically since the Conservatives had made their election promise to "privatize" Petro-Canada, aside from minor sections, Petro-Canada would not be sold to the private sector. As Simpson notes, with this statement Conservative policy regarding Petro-Canada had changed markedly since 1975.

> With Hnatyshyn's statement, the Conservatives had changed direction completely since their days in Opposition: they had gone from arguing that PetroCanada was unnecessary (1975), to allowing that PetroCanada was necessary but better off entirely in private hands (1978), to conceding that PetroCanada would be only partially sold off (1979) to deciding that PetroCanada would remain largely intact.[127]

But this was not to be the Conservatives' final position on the state oil company. In August 1979 a Task Force headed by Don McDougall was commissioned to advise the government as to the "procedures for transferring Petro-Canada to private ownership, which of the existing assets of Petro-Canada might most benefically be returned to the private sector, as well as means of broadening Canadian participation and ownership in the petroleum industry."[128] When the Task Force presented its report on October 15, 1979 it proved to be entirely unacceptable to the government. In essence, the report recommended that the government give away all the profitable parts of Petro-Canada and retain the unprofitable, high-risk operations. To Finance Minister John Crosbie, already facing a massive deficit, these recommendations were entirely unacceptable. Furthermore, Clark received no support from Ontario Premier William Davis. Speaking in the Ontario legislature the day after the report was released, Davis spoke clearly in favour of retaining Petro-Canada:

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[126] Jeffrey Simpson *Discipline of Power* 1980 p. 163
[127] Jeffrey Simpson op. cit. p. 166
[128] Report of the Task Force on Petro-Canada October 15, 1979 p. 1

> Our government believes the present national responsibilities of Petro-Canada should be retained and that the federal government should retain ownership of PetroCanada as a national publicly owned petroleum insitutuion.[129]

Clark then had a Cabinet committe headed by Hnatyshyn and the Minister of State for International Trade, Michael Wilson, formed to study the task force report and form an acceptable policy on Petro-Canada. Its report, made public during the 1980 campaign, recommended that Petro-Canada remain a corporation but that every Canadian over 18 as of July 1, 1980 be given 5 free shares valued at $10 each. When those presently under 18 reach that age they would then receive 5 shares as well. Individuals and institutions would be allowed to purchase additional shares as long as no individual or insitituion's holdings exceeded 3% of the total number of outstanding shares. As well the Government would retain one-third of the shares. Again, this report marked a significant change in government policy. From having once viewed Petro-Canada's existence as unnecessary, the government was now advocating the retention of the company with the Government itself maintaining controlling interest.

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[129] cited in Jeffrey Simpson op. cit. p. 171

Why the change in policy? The most convincing reason is that Petro-Canada had become so big[130] and had come to occupy such an important and necessary place in the industry in both the industries' and the public's opinion that it simply could not be disposed of. Elaine Dewar writes that,

> In just four years it had grown so large and complex that no one could take it apart. Even the Tories who had come to office with an ideological commitment to do away with it, found the siren song of this policy instrument undeniable.[131]

Despite Clark's well known difficulties with Petro-Canada, his energy policy was not solely concerned with the state oil company. It was also notable for the great difficulty he had in reaching a pricing agreement with the Lougheed Conservative government.[132] What is significant about Clark's dispute with Lougheed is that while in opposition he was a strong supporter of provincial rights, but after coming to office he began to realize that the federal government, in order to perform its duties, was in desperate need of increased revenues, and that the petroleum sector was the logical place to look first. Clark was willing to offer Lougheed a significant increase in the well-head price of oil (up to $6/barrel/year) in return for Alberta's promise that the federal government would receive enough revenue to offset a significant portion of the impact of the higher prices in the rest of the country (and for those less well off). However, Lougheed refused to make significant concessions and no agreement was reached.

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[130] As of December 31, 1979 Petro-Canada's assets stood at $2.7billion-- see Petro-Canada Annual Report 1979

[131] Elaine Dewar op. cit. p. 26

[132] Of course, the Alberta government was not his only obstacle. He also had the even greater problem of William Davis of Ontario with which to contend.

Additional evidence of the Clark government's need for increased revenues is found in the Crosbie budget of December 1979, where it was declared that the well-head price of Canadian oil was to reach the lower of the U.S. price measured at Chicago or the international price by 1984.[133] Of this increase the federal government was to take a significant portion. The budget stated that:

> We intend to ensure, through our new energy tax, that the Government of Canada obtains roughly half of the returns from oil and gas price increases that exceed $2.00 per barrel and 30 cents per thousand cubic feet per year. On this basis the Government of Canada will have sufficient revenues from the increases in oil and gas prices to carry into effect energy programs, conservation programs and offset programs to assist the regions and people of Canada.[134]

Although Clark came close to reaching an energy agreement with the Lougheed government, the agreement was not achieved before the government fell. But more significantly, in the politically crucial province of

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[133] Department of Finance Budget Speech The Honourable John Crosbie (December 11, 1979) p. 4

[134] IBID p. 4

Ontario, which contained one-third of the country's population and about one-third of its seats, agreement with Davis was never close. In a statement on oil pricing released in August 1979, Davis established a position completely opposed to that of Clark by stating that "the world price should not be regarded as the target benchmark for pricing Canadian crude oil; and Canadian prices should be below the average United States oil prices at Chicago"[135] Furthermore, this document stated that "Ontario is opposed to any immediate price increase beyond the current January 1980 agreement which calls for a $1 per barrel increase."[136] These statements made clear Davis' opposition to Clark's decision to raise Canadian prices to world levels. Failing to win the support of both Davis and Lougheed hurt Clark greatly as it reinforced the public's already low opinion of him as a statesman. Clark had great hopes that his Conservative government would be able better to negotiate with the Conservative government's in Alberta and Ontario. But his experience was only to prove that similar party affiliation and ideology is not enough to overcome the more immediate and pressing realities of economic interests and political expediency.

What does the Clark period mean in light of the analysis presented in this chapter? Most importantly one can see the continuity of problems with recent Liberal administrations that Clark had to face and how they limited his policy options. Thus there was the public's renewed apprehension over security of supply (this being due to the 1978-79 Iranian revolution and loss of supplies[137]), the intensifying fiscal crisis (considerably accelerated since the 1979 international oil price increases), the conflict with Alberta over pricing and revenue sharing, and finally, the acceptance by much of the industry (and the public) of the need for Petro-Canada. Although the Clark government did develop an alternative and much tougher energy policy from that of the preceding Liberal governments it is also true that a major component of that policy (that dealing with Petro-Canada) was greatly compromised, due to the ongoing presence of the above structural constraints. Ultimately these constraints were to pose a much more serious obstacle for the Clark government-- its electoral defeat on December 13, 1979, after less than 9 months in power.

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[135] William Davis in Government of Ontario, "Oil Pricing and Security: A Policy Framework for Canada" August 1979 p.2
[136] IBID p. 4

CONCLUSION

This chapter has made no attempt at a comprehensive analysis of energy policy throughout the 1970s. What has been done is to select a number of important trends and developments of the period, describe them, and to a lesser degree analyze them. Their importance will become more apparent after an examination has been made of the NEP. But to anticipate briefly, one can see the basis of the NEP developing throughout the 1970s. Thus, for instance, one can see the growing concern by the federal government of the dominance of the (foreign-based) multinational oil companies in the oil and gas sector. One can also see the roots of the 1980 frontier oil and gas legislation (Bill C-48), a crucial component of the NEP, in the 1976-77 Bill C-20 (complete with its own earlier version, in much less explicit form, of "Canadianization"). However, there are important differences as well. For one, the role of Petro-Canada under the NEP has been greatly expanded, although one can see that advantages for the state oil company were also present (but in more moderate form) in the earlier Bill C-20. As well, a number of important circumstances changed in the late 1970s, notably after 1979, with the intensification of the fiscal crisis (the effects of which could be seen on the Clark government and which are again reflected in the NEP). One can also see that the latest energy program is much more of a political document than either the 1973 or 1976 energy documents, and it reflects a revival within the federal government of economic nationalism. But most important to note about 1970s energy policy (which continues to be manifested in the NEP) is the dedication of the federal state to the interests of private capital. The next two chapters will now describe and analyze the major components of the NEP and its component Bill C-48.

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[137] This will be dealt with more thoroughly in subsequent chapters.

III. The National Energy Program-- An Analysis

INTRODUCTION

The energy program (NEP) which emerged out of the Liberal election victory in the winter of 1980 was in a number of respects quite different from past Liberal (and particularly Conservative) energy policies. It was decidedly interventionist, centralist, and nationalist in its orientation, while concomitantly enhancing the position of a number of fractions of Canadian capital-- namely large oil capital and central Canadian industrial capital. Indeed, this program serves primarily to benefit particular fractions of Canadian capital, as well as the federal state. How does one explain the NEP? What were the major factors which led to its design? Was the NEP a policy designed merely for political expediency, or was it part of a much larger design which had as its objective the Canadianization of a much larger portion of the economy than just the energy sector?

In explaining the NEP three fundamental and interrelated factors influenced the design of this policy: economic, political, and international. On the economic side, there is little doubt and considerable evidence that the policy was designed to serve the objective requirements of Canadian capital. Briefly, evidence for this assertion lies in the cash incentive grants which clearly discriminate in favour of Canadian-owned and controlled oil companies, (particularly large Canadian companies), the requirement of

50% Canadian ownership in the oil and gas industry by 1990, and the Canadian procurement regulations concerning goods and services used in the industry, contained in Bill C-48. (This last point will be dealt with in the next chapter.) Furthermore, the expanded role of Petro-Canada was not intended to replace private Canadian capital, but to supplement its efforts to ensure a stable supply of oil to Canadian industry and consumers. The key question which remains to be asked is why did the federal government design the NEP to (primarily) aid Canadian capital? The answer lies in the fact that the Canadian oil and gas sector in 1980 remained heavily dominated by foreign-owned and controlled interests. In 1980, 74% of revenue and 62.2% of assets of the petroleum industry were owned by foreign-based companies. [138] Furthermore, the petroleum sector was the most profitable sector of the Canadian economy throughout the 1970s and with the 1979 international price increases, promised to become even more profitable (if the federal government allowed the domestic oil price to reach world levels.)[139] Hence it is clear that the federal government wanted to encourage Canadian capital (both oil and non-oil) to expand its investment in the oil and gas sector, in order to ensure that this key sector came under Canadian control.

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[138] Petroleum Monitoring Agency *Canadian Petroleum Industry 1980 Monitoring Survey* Table 8.1 p. 41.

[139] With the increasing burden of the Oil Import Compensation Program as well as continuing pressure from Alberta, the pressure to do precisely this was intensifying.

This would mean that the profits generated[140] in this sector would remain within the country and thereby generate additional growth in other sectors of the economy.

However, the NEP cannot be explained solely as an effort to improve the position of Canadian capital, (although Canadianization is certainly the heart of the program). If this were the case, the Liberals could have pursued additional tactics such as lowering industry taxation rather than introducing the Petroleum and Gas Revenue Tax (PGRT). However, this tax, in addition to the phasing out of federal subsidization of imported oil, which shifts the burden of bearing the international price of imported oil to the consumer, through the Petroleum Compensation Charge (PCC), has been implemented with another important objective in mind: improving the federal government's fiscal position. Since 1974 the federal government had subsidized the import price of oil and after the large 1979 international price increases, this burden became extensive and began to cause a significant drain on federal reserves. In James O'Connor's terms the federal state was experiencing a "fiscal crisis".[141]

From this one can observe that the federal government believed that both the requirements of Canadian capital (particularly in light of the heavy foreign domination of the energy sector and the 1979 international price increases) and the fiscal crisis existing at the federal level of government, necessitated changes in the sector of the economy that had been the most profitable throughout the 1970s-- the energy sector. Hence both these factors (which one can classify as economic) had a major influence on the formation of the NEP.

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[140] the federal government expects the oil and gas sector to be the major source of growth in the economy during the 1980s.

[141] Of course there were additional factors causing this "fiscal crisis", and these will be dealt with below.

The second major factor which explains the NEP is political. There are two basic components of this. The first is that when the NEP was designed the Liberals were in opposition, and the second is the antagonistic relationship between Ottawa and Alberta over energy which had existed for at least six years prior to the NEP's release. There is little doubt that after their defeat in 1979 the Liberals feared that their support was being eroded by the growing popularity of the NDP, and the argument can be made that the NEP was designed to shift Liberal policy to the left and thereby recapture support which had been lost to the NDP. As for the antagonism between Ottawa and Alberta, there is also little doubt that the enormous and expanding wealth of Alberta was of concern to the federal government, as they feared that this heavily-concentrated wealth in one province would undermine Ottawa's control of the economy. Hence it has been argued that the NEP was also designed to reduce the rate of growth of Alberta's revenues thereby enhancing the fiscal position of the federal government. Although it is true that the basis of this fear was in economic developments-- the deteriorating fiscal position of Ottawa relative to Alberta (and the other Western oil producing provinces)-- it is nevertheless true that Ottawa's response became one which was deeply enmeshed in the political.

The third factor which must be examined in order to understand the NEP is a development within the international petroleum market in 1978-79-- namely the doubling of the world price of oil in the wake of the Iranian revolution. This development was of critical significance in influencing the NEP as it significantly exacerbated the federal government's fiscal crisis and hence contributed directly to the decision to increase federal revenues from the oil and gas sector, phase out the Oil Import Compensation Program, and proceed with the Canadianization of the oil and gas sector.

Having established the objectives of this chapter, I will now pursue a more detailed analysis of the NEP, beginning with an examination of how the NEP compares (and differs) with past energy policy. This will be followed by an examination of the impact of the 1979 OPEC price increases on Canadian energy policy and how this renewed concern within federal ranks over the high levels of foreign control in the oil and gas sector. The political factors which led to the NEP will then be examined, followed by an analysis of the NEP which argues that, contrary to industry fears of the NEP reflecting the objectives of a "socialist" government, the NEP is rather a policy intended to strengthen the fiscal position of the federal state and enhance the position of particular fractions of Canadian capital.

CHANGE AND CONTINUITY WITH PAST ENERGY POLICY

Perhaps the most obvious area where the NEP differs from past policy is in the nationalism it exudes. For, clearly, the document reflects a return to the nationalism of the early 1970s when such institutions as the Canada Development Corporation (1972) and the Foreign Investment Review Agency (1974) were created. Indeed, Richard Gwyn has declared the NEP to be "the most ambitious program of nationalist-inspired state intervention in the economy attempted by any Canadian government since World War II."[142] Yet there is an important difference between the mood prevailing today and that of a decade ago. Both the CDC and the FIRA have long been decried as hapless instruments in the effort to assert Canadian nationhood. The CDC has proven at best a moderate success[143], while FIRA's record on preventing foreign takeovers has been less than spectacular, with its approval rate being somewhere in the vicinity of 80%. The NEP, however, reflects the efforts of a government much more dedicated to nationalism (if only in the energy sector) than the government of the early 1970s. This is evident from the number and variety of instruments being used to implement the latest energy policy-- the Petroleum Incentives Program (PIP), the Petroleum Monitoring Agency (PMA), Petro-Canada, the department of Energy, Mines and Resources and to a lesser extent the Foreign Investment Review Agency (FIRA). The critical question which needs to be asked is, which interests benefit from the reassertion of this nationalism? As will become clearer below, it is precisely the prevailing dominant fractions of Canadian capital, as well as the federal government, which stands to gain the most from the NEP. The latest energy policy is indeed a most convincing assertion of bourgeois nationalism.

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[142] Richard Gwyn Toronto Star October 29, 1980 p. A14

[143] see Marsha Gordon *Government in Business* C.D. Howe Institute 1981

Closely related to the nationalism exhibited in the NEP is the decidedly interventionist stance which the state is taking in the energy sector. The creation of Petro-Canada in 1976 had demonstrated that the federal government was no longer content to leave the entire energy sector under the sole (direct) control of the private sector. The NEP reflects a reassertion of this same attitude, as it has allowed a significant expansion of the state oil company with the takeover of Petrofina of Belgium. Indeed, Petro-Canada is one of the government's major instruments to be used for Canadianizing the oil and gas sector. Clearly, the federal government felt that current public sector participation in the oil and gas sector was too low. The NEP states that,

> Events since Petro-Canada was created have reinforced the general appreciation of the positive role that can be played-- and has been played-- by such an instrument as a "window" on the industry, a stimulus to activity, and a supporter of domestic industries providing goods and services to the energy sector. Nevertheless, direct public sector participation in this sector remains too low. By world standards, the degree of private sector involvement in the Canadian oil industry is high.[144]

Certainly the degree to which the government is determined to intervene directly in the energy sector is one of the major aspects of the NEP which differs the greatest from past energy policy.

Another element of the NEP which differs from past policy is in the incentive grants (implemented through the Petroleum Incentives Program or the PIP) offerred to industry. In the past certain expenses such as earned depletion and super-depletion were deductible from federal income tax. However it was realized that this system benefited the large (primarily foreign-owned) firms much more than the smaller Canadian independents, thereby reinforcing foreign control in the oil and gas sector. The new PIP program differs considerably from the past system as it consists of cash grants not dependent on the company having taxable income. Thus the small company will qualify for the grants even if it does not have any taxable income. In other respects, however, the PIP grants maintain a continuity with past policy. This is evident in the fact that they continue (admittedly with an enhanced level of dedication) the federal policy of encouraging frontier development (which began seriously with the introduction of super-depletion in 1977). Clearly the government has decided to continue (and enhance) its encouragement of frontier development. This is most obvious, of course, in the fact that the exploration and development incentives are heavily weighted to favour frontier investment. These incentives (assuming maximum Canadian ownership and control), allow up to 80% of exploration costs and 20% of development costs for companies operating on federal lands, as opposed to only 20% for exploration and development costs for companies operating on provincial lands, to be written off. In defending this system of grants, the federal government argues that the provinces have their own exploration and development incentives and that if the federal government were to equalize payments to firms operating on provincial lands it would increase to unacceptably high levels the economic return to the operating companies. Although there is no doubt some truth to this, a more convincing explanation is that the incentive schedule is inextricably involved with the federal-provincial dispute over revenue-sharing which has been such a prominent federal concern since 1973.

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[144] EMR NEP (1980) p. 20

The final area of significant change from past policy is the dedication contained in the NEP to Canadianize the oil and gas sector. Certainly this is its (the NEP's) most prominent feature. In noting the low degree of Canadian participation in the oil and gas sector the document states its intention to increase this level of participation. With this objective in mind it notes that,

> while there is an important and entrepreneurial Canadian presence in the oil and gas sector, the involvement of Canadians through private and public sector corporations is still unacceptably low. The challenge is to effect the changes required to alleviate these problems.[145]

Although Canadian ownership requirements were formulated in the 1976-77 frontier regulations, the NEP, through the discriminatory PIP, the expansion of Petro-Canada and the Canadian procurement regulations contained in Bill C-48, demonstrates a dedication to Canadianization which has not been seen in the past.

However, not all (or even most) aspects of the NEP reflect a sharp break with the energy policy of the past few years. Indeed, there are a significant number of areas of continuity with past policy. One of the most important policies which demonstrates this continuity can be observed in the continuation of the off-oil policy of past years.[146] The importance of reducing oil consumption is evident from the following passage from the NEP:

> the National Energy Program establishes the basis for a truly dramatic shift in Canada's pattern of energy use-- away from oil, toward gas, electricity, renewable energy and coal. This "off-oil" conversion program, therefore, is a cornerstone of the drive towards independence from the world oil market

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[145] EMR NEP (1980) p. 23

[146] This, along with Canadianization, is a major goal of the NEP.

within the decade.[147]

The objective of the program is to reduce oil as a source of energy from its 1979 level of 42.6% to 26.7% by 1990, while concomitantly raising the contribution supplied by natural gas from its 1979 level of 18% to 22.7% by 1990. Similarly, the contribution of electricity will rise marginally and renewables will almost double to 6%.[148]

There are a number of ways which the government intends to use to encourage the substitution of natural gas and other energy sources for oil. Under the original pricing schedule contained in the NEP [149] the price of natural gas was to fall relative to that of oil, from a level of 80% in 1980 to 67% by 1983.[150] In addition to the encouragement of substituting natural gas through lower prices there are a number of other ways which the NEP outlines to reduce demand for oil. Federal grants covering up to 50% of the costs of an individual's converting his/her home heating system from oil to gas, electricity or some other energy source (to a maximum of $800), will be made available.[151] There will be a reduction in the availability of heavy fuel oil[152] which competes with natural gas in many industries. This will largely be accomplished by upgrading present refineries so that they can refine heavy oil. As well, the extension of the natural gas pipeline from Montreal to Quebec City has already been approved and it will likely be extended to the Maritimes by 1983.[153]

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[147] EMR NEP (1980) p. 54

[148] EMR NEP (1980) p. 100

[149] Of course, with the new pricing agreements signed between Ottawa and Alberta, British Columbia and Saskatchewan in the fall of 1981, this pricing schedule becomes outdated. However, as will be seen in the examination of the new pricing agreements, basically the same incentives are offerred for the substitution of natural gas for oil.

[150] EMR NEP (1980) p. 32

[151] EMR NEP (1980) p. 56

[152] IBID P. 62

The NEP also outlines a larger role for renewable energy, although this is a relatively minor aspect of the off-oil strategy. It involves government-financed demonstrations of renewable energy systems such as wood gasification, photovoltaics, wind power etc., conservation measures, and the establishment of a new alternative energy corporation, initially as a subsidiary of Petro-Canada, Enertech Canada, with initial funding of $20 million.[154]

Finally, in the area of conservation the Canadian Home Insulation Program (CHIP) budget will be more than tripled to $265 million annually, its objective being to upgrade "70 per cent of Canadian homes by 1987."[155] As well, any new residential housing "for which federal financial support or backing (e.g. under the National Housing Act) is sought after July 1, 1981, must meet federal energy efficiency standards."[156] In the industrial sector little along the line of improving conservation or efficiency is offerred. The same can be said for the transportation sector although brief mention is made about new legislation to establish mandatory mileage standards for automobiles.[157]

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[153] IBID p. 58
[154] EMR NEP (1980) p. 67
[155] IBID p. 69
[156] IBID p. 70

Additional evidence of continuity in the NEP can be seen in the back-in privileges granted to Petro-Canada, the basic royalty and the Progressive Incremental Royalty (PIR), the Canadian content regulations for companies operating on the Canada Lands, and the increased level of ministerial discretion granted to the Minister of Energy, Mines and Resources. All of these regulations were contained in the earlier Bill C-20. These areas of continuity will become more apparent in the analysis of the NEP which follows in this and the next chapter. It can be stated here that on the whole the NEP demonstrates more change than continuity with past policy.

There is one final area where the NEP constinues a trend which has been emerging in federal energy policy throughout the 1970s. This is that the NEP continues (albeit on a larger scale) to reflect the efforts of a state determined to increase its control over the crucial energy sector-- both for purposes of security of supply and to increase its share of revenues from the petroleum sector. Yet in expanding its role in the energy sector the state is not attempting to squeeze private capital. Indeed it ultimately remains an actor working for both capital and to strengthen the capitalist relations of production already predominant in Canadian society.

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[157] IBID p. 73

The following sections will now attempt to explain the formation of the NEP. The three factors mentioned above-- the role of the political, the economic and the international-- will be elaborated upon, beginning with an examination of the developments within the international petroleum market in 1978-79 and their influence on Canadian energy policy. These events are of utmost importance to the design of the NEP as they had a critical bearing on the federal government's deteriorating fiscal position (both absolutely and relative to that of the producing provinces, especially Alberta), the decision to implement Canadianization, and the expansion of federal control over the petroleum sector.

1979 AND THE RETURN TO INSTABILITY WITHIN THE INTERNATIONAL PETROLEUM MARKET-- THE CANADIAN RESPONSE

There is little doubt that the Iranian revolution of 1978-79 contributed importantly to the numerous expressions of concern contained in the NEP over the availability of secure international oil supplies. Since the shock of 1973 a mood of complacency had returned to much of the Western world. This was evident in the fact that, with economic recovery beginning in the West towards the end of 1975, oil import levels had begun to rise to pre-1973 levels. Indeed just prior to the Iranian revolution American oil import levels were approaching 50% of total oil consumption. Canada also experienced a rising level of imports while domestic production continued to decline throughout the 1970s. Between 1973 and 1978 Canadian oil production declined from 716 million barrels/year to 522 million barrels/year, and net imports of oil increased from -100 million barrels/year in 1973 to 127 million barrels/year in 1978.[158] Although the oil sands plants and the Beaufort Sea[159] contained great promise, it was recognized that their potential would not be realized until the latter part of the 1980s at the earliest. Thus Canada would continue to rely for at least a decade on imports for at least 25% of her oil requirements. What is more, prior to 1979 all imports were controlled by foreign-owned multinational oil companies. With a glut prevailing on the international oil market immediately prior to the Iranian revolution these companies had little difficulty meeting their contractural commitments. However, once the Iranian revolution reduced Iran's export production the demand on world supplies became acute. Although the shortfall of world supply never reached the key level of 7% (the level at which International Energy Agency emergency allocation schemes are activated) Exxon nevertheless unilaterally decided to reduce supplies to Imperial Oil of Canada by 25%. Not surprisingly the federal government was not pleased with this decision, as it was an action judged contrary to the best interests of the country, and even worse, one taken outside national boundaries. Energy

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[158] Brent Friedenberg *Energy in Canada: Review and Outlook to 1995* Canadian Energy Research Institute July 1979 p. 59
[159] After Dome's 1979 discovery at Kopanoar.

Minister Alistair Gillespie stated in response to Exxon's decision that,

> Imperial sources come exclusively from Venezuela.... It is intolerable and unacceptable that our multinational corporations would intervene and decide that 25,000 barrels a day of crude oil, or roughly one-quarter of the crude oil supplies for this country, should be diverted to other markets.[160]

Although Exxon's cutbacks in supply to Imperial ultimately amounted to only 5%, this action nevertheless had a significant impact on the federal government's attitude towards the private sector (dominated as it was by foreign-owned and controlled firms).

The first reaction of the federal government to Exxon's action was to expand the role of the state oil company by directing Petro-Canada to enter into direct state-to-state oil trading with Mexico.[161] The state oil company also held discussions with Saudi Arabia regarding similar arrangements. The second major outcome of the instability experienced in 1979 was of course the NEP, which attempts to remove control of the energy sector from foreign hands through encouraging Canadianization, expanding the role of the state oil company, and continuing to encourage the consumption of fuels other that oil. This attempt to reduce

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[160] House of Commons Debates February 16, 1979 4th Session, 30th Parliament p. 3302

[161] The Department of External Affairs 1979 Annual Review, noting the impact of the 1979 Iranian revolution and the doubling of OPEC's price for oil, states that Canada must improve her energy security beginning with the use of Petro-Canada in state-to-state oil trading. see Department of External Affairs Annual Review 1979 p. 5.

Canada's vulnerability to external factors in the petroleum market is evident from the NEP which states that,

> Although Canada now depends on imports for only 25 per cent of its oil needs, provision must be made against the possibility of supply restrictions as a result of a major breakdown of the international or domestic oil system, through deliberate interruption of overseas supply, or because of turmoil in a major producing country.[162]

And further,

> any country able to dissociate itself from the world oil market of the 1980s should do so, and quickly. Canada is one of the few that can.[163]

The program itself outlines four ways that the federal government will attempt to protect the country from the vagaries of the international market: 1) through IEA (International Energy Agency) emergency-sharing arrangements to minimize the effects of world-wide supply shortfalls exceeding 7%; 2) state-to-state oil deals; 3) the creation of a domestic emergency oil allocation system to be made operational in times of severe shortfalls of supply; and 4) increased oil storage.[164]

One of the primary ways in which the NEP is intended to reduce Canada's vulnerablity to the international petroleum market is through the further expansion of the state oil company (which has begun with the take-over of Petrofina), and subsequent to the NEP, through the expanded recapitalization[165] of Petro-Canada, thereby allowing it to pursue increased levels of exploration and development. Joseph Camilleri, writing generally about the expansion of state activities in most western industrialized nations in recent years, explains that in an interdependent world dominated by transnational institutions (e.g. MNC's), the state is forced to expand its activities in order to exert control over the national economy and to promote the "national interest."

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[162] EMR NEP (1980) p. 87
[163] EMR NEP (1980) p. 7
[164] EMR NEP (1980) pp. 88-89

> In an increasingly fragmented world economy, in which the disruptive impact of competing interests is likely to outweigh the regulatory potential of existing institutions, states will find it necessary to acquire even greater powers of economic management in the defense of "national interests," which may well involve supporting and extending the stake of domestic capital in economic or territorial spaces subject to the power of foreign states."[166]

What exactly is the "national interest"? Liberal academics are fond of using this term to demonstrate the state acting in interests other than those of private capital, and hence to discredit the analysis of the Left. However, in explaining state action regarding the design of the NEP and the expansion of Petro-Canada, it is argued in this thesis that although the state claims these initiatives were taken in the interests of the country as a whole (the "national interest"), in fact, these policies serve primarily to improve the conditions of accumulation for certain fractions of private Canadian capital. This does not necessarily mean that the state only works directly in the interests of the "bourgeoisie". As is argued below, the "bourgeoisie" is not a monolithic entity with identical interests, but is rather divided into many (often varied) fractions with differing interests. For example, finance capital is no doubt pleased with the current federal policy of high interest rates while industrial capital is not. Another example is that (theoretically) the oil industry would prefer to see the world price for its oil, while industrial capital (with oil being an essential input in much of their production) would prefer to have a price considerably lower that the world price.[167] Hence, due to the non-monolithic nature of the bourgeoisie, the state is forced to work (at times) against the immediate interests of some fractions of capital. This is precisely what has happened with the NEP, which works against the interests of foreign-owned oil interests (and even against small Canadian oil companies), and in favour of large Canadian oil companies and central Canadian industrial capital. In acting in this manner, one can describe state action as relatively autonomous.

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[165] In June 1981 it was announced that Petro-Canada's common share capital would be expanded to $5.5 billion from $500 million. See Globe and Mail June 23, 1981 p. B9

[166] Joseph Camilleri "The Advanced Capitalist State and The Contemporaary World Crisis" in Science and Society Summer 1981 p. 149

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[167] Of course, as was seen in the last chapter, this (low oil prices) has not been the position of industrial capital for the last two years. Because of the unrest and slowdown in many capital intensive energy projects in Alberta in recent years, the CMA and similar organizations (for example, the Canadian Chamber of Commerce) has decided that higher oil prices would better serve industrial capital.

The dominance of foreign controlled companies in the Canadian oil and gas sector not only raised concern over their reliability at supplying Canada's oil import requirements. This condition also raised concern that if the Canadian price were allowed to rise to the (now doubled) international level, this would greatly increase the asset value of the (foreign-owned) Canadian companies and make them even more inaccessible to takeover bids by Canadian interests. Furthermore, a significant increase in the Canadian oil price would have also increased the capital flows out of the country[168] and placed even greater amounts of cash in foreign hands which would have enhanced the probability of further foreign takeovers of Canadian assets in other sectors of the economy. As will be seen in the next two sections, the state's response to these conditions was to expand federal control over the energy sector and to increase Canadian ownership of the oil and gas sector. This is to be achieved both through an expansion of the state oil company and through the private sector. Once again, although the Canadianization aspects of the NEP demonstrate the state working directly, and even forcefully, in the interests of particular fractions of Canadian capital, state action to expand its control over the oil and gas sector also illustrates the state acting in its own interests, thus demonstrating some autonomy in its actions.

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[168] The oil and gas sector was already a capital exporter in 1979.

RENEWED CONCERN WITH FOREIGN OWNERSHIP

Not unrelated to Exxon's actions of 1979 was the clear intent of the federal government to reduce the level of foreign ownership in the vitally important oil and gas sector. Of course, as is evident from the discussion in Chapter 2, this was not a new idea, as it has been an objective of the federal government to reduce foreign control in oil and gas since at least 1973. But Exxon's 1979 actions and the general return to instability in the international petroleum market made the objective much more immediate. The NEP clearly expresses concern over the high level of foreign ownership and control in the oil and gas sector.

> Of the top 25 petroleum companies in Canada, 17 are more than 50 per cent foreign owned and foreign controlled, and these 17 account for 72 per cent of Canadian oil and gas sales. This is a degree of foreign participation that would not be accepted--indeed, simply is not tolerated-- by most other oil-producing nations.[169]

Furthermore, continued foreign domination of the oil and gas sector would mean ever larger windfall gains accruing to these companies in the advent of higher domestic prices.

> The continued increase in oil and gas prices that will occur means a further large foreign wealth transfer from Canadians to foreign shareholders. By ignoring the problem of foreign ownership in the past, Canadians have lost a significant share of the benefits of having a strong resource base. If we fail to act now, Canadians will lose once again.[170]

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[169] EMR NEP (1980) p. 19

[170] EMR NEP (1980) p. 18

Indeed, one of the reasons why the federal government was reluctant to allow the domestic price of oil to rise in the past was because of the enormous revenues that would have accrued to foreign companies, thereby enhancing their value and making them beyond the reach of Canadian takeover bids.[171] The NEP speaks of the urgency of increasing Canadian ownership, as if it is not done immediately the value of these companies will be such that they are placed far beyond the reach of Canadian capital.

> Each year brings a further windfall gain to the foreign-owned firms. The value of these firms and, therefore, the cost to Canadians of securing control over them, has increased three-to four-fold--equivalent to tens of billions of dollars. A further delay will put the value of companies in the industry so high as to make the cost prohibitive, leaving Canada with no choice but to accept a permanent foreign domination by these firms.[172]

In addition to the federal government's concern that the high level of foreign ownership be reduced, and the fact that higher domestic prices were untenable given the existing levels of foreign ownership, there were two other problems with the high levels of foreign control in the oil and gas sector that worried the federal government. First, Canadian prices approaching the world level would have greatly increased the cash flow of the foreign-owned companies and this would have, potentially, led to an expansion of investment into other sectors and hence further increased foreign control of the economy. Second, higher prices would almost certainly have increased the flow of capital out of the country thereby further devaluing an already weakened Canadian dollar. As the NEP points out, "the oil and gas industry, far from drawing in foreign capital, has...been a capital exporter."[173] It continues:

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[171] Another important reason was the fiscal imbalance such price increases would have created between the federal government and the producing provinces (notably Alberta).

[172] EMR NEP (1980) p. 19

> The industry, in addition to maintaining its normal dividend and interest payments, supported net capital outflows abroad of $2.1 billion in 1975-79. Some of these funds represented a return of capital to foreign owners; others represented new foreign investments by Canadian companies. If dividends and interest payments are added to this total, the total outflow over the period 1975-79 becomes approximately $3.7 billion. Dividends rose from $200 million a year in 1973 to $600 million in 1979. In addition, the foreign parents have received fees for technological, operating and managerial services.[174]

Furthermore, Lalonde has estimated that without the NEP foreign dividend outflows alone could have reached $1.2 billion by 1983. [175] It was largely due to the high degree of foreign control in the oil and gas sector, in combination with the doubling of the world price of oil in 1979 and the added strain this placed on the federal government's fiscal capacity, then, that led to the Canadianization thrust of the NEP. Once again, in that the Canadianzation thrust of the NEP works against the foreign-owned oil companies (notably through the PIP grants[176]), one can observe the state acting in a relatively autonomous manner. The philosophy that led C.D. Howe to declare in a 1952 Boston speech that, "In Canada foreign investors are treated the same as domestic investors" no longer remained true.[177] However, before discussing the Canadianization proposals contained in the NEP it is first necessary to examine one of the political factors-- the 1979 Liberal election defeat--which led to the NEP.

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[173] EMR NEP (1980) p. 17
[174] EMR NEP (1980) p. 17
[175] Globe and Mail May 13, 1981 p. B1
[176] These will be examined below.

THE 1979 LIBERAL ELECTION DEFEAT AND THE SHIFT TO THE LEFT

Although it is the primary argument of this thesis that the NEP can best be explained by economic factors, it is nevertheless important to note that the political also had an influence on the design of Canada's latest energy policy. In fact, it has been argued in some circles that the NEP was a policy designed solely for political expediency in order to return the Liberal party to power. There are serious problems with this argument; the most important is that this type of argument serves only to simplify the numerous and concrete factors which did influence the policy and to trivialize the program itself. Thus, in this form it must be rejected. Yet the electoral defeat of the Liberals in 1979 no doubt did have an important influence on the decision to design a new, more nationalist energy policy. There is little doubt that the 1979 defeat reflected a deterioration in the Liberal's position in industrial southern Ontario. Indeed, it was the loss of support in Ontario to which party strategists attributed their election defeat.[178] As well, since their 1974 election, the Liberal party had become increasingly conservative in their economic policies. This was most evident in the high interest rate policy followed towards the end of the 1970s. Finally, the Liberals lost important ground to the NDP in the 1979 election, this being reinforced by a poll released during the 1980 campaign which showed that the Liberals were continuing to lose support to the NDP. Hence, it is reasonable to assume that a new energy policy was conceived (in part) to recapture electoral support lost to the NDP. For by striking the emotional chord of nationalism in the electorate, and by attacking the (politically unpopular) multinational oil companies, the Liberals were certain to win some support.

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[177] C.D. Howe; cited in L. Panitch "The Role and Nature of the Canadian State" in L. Panitch (eds.) *The Canadian State* University of Toronto Press 1977 p. 18.

The first indication of the Liberal's plans for a new, nationalist energy policy can be observed in a speech delivered by Trudeau in Halifax on January 25, 1980. This speech contained many of the elements subsequently developed in the NEP, including a commitment to: the expansion of Petro-Canada; the Canadianization of the oil and gas sector; a made-in-Canada energy price; exploration and development of frontier oil; and a reduction of Canada's dependence on oil as an energy form by encouraging the substitution of other energy sources such as natural gas.[179] Many of these policies were popular with the electorate, and there is little doubt that, in part, electoral factors did lead to the decision to make the promise to develop a new energy policy part of the Liberal's election platform. However, to overly emphasize the contribution of this factor in influencing the design of the NEP would be a mistake. For one, this tends to undervalue the importance which numerous compelling economic factors (heavy foreign control of the oil and gas sector, the high profitability of that sector, fiscal crisis etc.) had on the NEP. Secondly, one must not forget that it was Clark and the Conservatives who made energy the focal issue in the 1980 campaign by promising to dismantle Petro-Canada, increase the well-head price of domestic oil, and impose additional heavy taxes on energy consumers. The Liberals simply devised an alternative energy policy which succeeded in winning more popular support than that of the Conservatives. And finally, as in the decision to create Petro-Canada in 1973, the Liberals were under no (immediate) political compulsion to implement their campaign promises after being returned to power in 1980. Campaign promises had been broken in the past, and with a healthy majority in 1980 there was no (political) reason why they could not renege on their latest electoral promise to create a new, nationalist energy policy. Thus, although political factors no doubt had an influence on the design of the NEP, it would be unwise to exaggerate their importance.

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[178] L. Pratt "Energy: The Roots of National Policy" in Studies in Political Economy Winter 1982 p. 30.
[179] IBID p. 30.

In turning now to analyze the energy program that emerged with the Liberal election victory in 1980, the next section will examine the central component of the NEP-- that of Canadianization.

CANADIANIZATION

There is little doubt that the objective of Canadianization is at the heart of the NEP. As the document states:

> greater Canadian ownership of the oil and gas industry in this country is a clear objective of the Government's policies. It is time that more of the considerable increase in the value of Canada's petroleum reserves, occasioned by international events, accrued to Canadians.[180]

And despite industry hysterics that "Canadianization equals nationalization", it is the argument of this thesis that, on the contrary, the NEP is a policy intended primarily to benefit Canadian capital-- firms such as Stelco, Seagrams, Dome Petroleum and Nova: An Alberta Corporation. As the NEP states,

> Canadian firms not yet involved in this sector will be encouraged to enter. There will still be an important place for foreign owned firms. Canada will remain open to foreign investment and skills. Over time, however, Canadians-- companies and individuals-- will become the major actors in the petroleum sector.[181]

One of the most compelling pieces of evidence which helps explain why the state wants to increase the Canadian presence in the oil and gas sector is precisely because it has been the most profitable sector of the economy for the past decade, yet one dominated by foreign-owned interests.

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[180] EMR NEP (1980) p. 48
[181] EMR NEP (1980) p. 105

This is illustrated in Table 4.

TABLE 4

RATE OF RETURN(1) FOR VARIOUS INDUSTRIES

	Shareholders' Equity			Capital Employed		
	1972	1975	1980	1972	1975	1980
			(%)			
1) Manufacturing	11.0	13.3	15.0	8.2	10.3	11.2
2) Mining	5.9	10.0	19.1	4.8	7.2	13.5
3) Other Non-Financial	11.5	12.1	13.2	7.4	8.8	9.2
4) TOTAL NON-FINANCIAL (excluding petroleum)	10.5	12.4	14.9	7.7	9.3	10.7
5) Petroleum	10.4	16.3	21.4	8.4	12.1	14.0
6) TOTAL NON-FINANCIAL (including petroleum)	10.5	13.0	16.4	7.8	9.7	11.5

Notes:
(1) Shareholders' equity is defined as the total of paid in shareholders' capital, retained earnings and other surpluses. Capital employed is defined as total assets less current liabilities.

Source: Petroleum Monitoring Agency *Canadian Petroleum Industry 1980 Monitoring Survey* Table 1.5 p. 11

This table illustrates that petroleum industries had the highest rate of return measured against both shareholders' equity and capital employed, throughout the 1970s. As will be seen below, by making this sector even more attractive to Canadian capital (through incentive grants distributed on the basis of Canadian ownership, Canadian ownership and control requirements and the Canadian procurement regulations found in Bill C-48 , the state is working in the interests of both (Canadian) industrial and large oil capital.

The NEP contains two basic methods designed to promote Canadianization-- indirect state aid to private capital (such as the PIP and Canadian procurement regulations), and direct public means (Petro-Canada, the Natural Gas Bank and the National Energy Board). I will first examine the direct methods.

In justifying the decision to increase the level of state participation in the oil and gas sector, the program reflects the government's belief that, because of past generous tax incentives to the industry, the consumer has a right to benefit more directly through state participation from Canada's abundance of oil and gas wealth.

> The industry owes much of its prosperity to cash flow and incentives provided by Canadian consumers and taxpayers, few of whom are in a position to share in the benefits of industry growth. For most Canadians, the only way to ensure that they do share in the wealth generated by oil, and to have a say in companies exploiting that resource, is to have more companies that are owned by all Canadians-- more

companies like Petro-Canada.[182]

In addition to improving the benefits to the consumer (and private capital) by its direct presence,[183] the government also (ostensibly) intends to use the state oil company to aid smaller Canadian oil companies-- primarily through joint ventures. This has long been an objective of the Liberal government as can be discerned from the following exerpt from Prime Minister Trudeau's December 1973 speech in the House of Commons in which he announced the government's decision to create a state oil company.

> It will in its joint ventures, attempt to involve smaller Canadian-controlled firms which currently find it difficult to sustain costly and lengthy development efforts. It will thus ensure for Canadians a more significant role in the development of their own resources.[184]

Although virtually all joint venture projects between Petro-Canada and Canadian companies have thus far occurred within Canada, it is also intended that they be pursued in foreign projects. As Joel Bell has stated,

> Petro-Canada may well be able to play a useful role taking a "piece of the action" in foreign deals and involving as many Canadian participants (in both investment and service roles) as possible. This could be an opportunity for Canadian independents that they might otherwise have difficulty obtaining.[185]

However, after an examination of Petro-Canada's joint ventures to date (all with large companies), it would appear that the federal government's ostensible dedication to aid small Canadian oil capital involves mostly rhetoric and little action.[186]

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[182] EMR NEP (1980) p. 20

[183] for example by increasing frontier exploration and development and hence (ultimately) speeding up the date for production to begin on the frontier. More will be said about this aspect of Petro-Canada's operation below.

[184] P.E. Trudeau House of Commons Debates December 11, 1973 Session Parliament p. 8482

[185] cited in Marsha Gordon *Government in Business* C.D. Howe Institute 1981 p. 96

To date virtually all of Petro-Canada's expenditures have been spent in joint venture projects, many of these being of a relatively high-risk nature. One of the major reasons explaining Petro-Canada's willingness to enter into relatively high-risk projects, such as the Syncrude Project and exploring the frontier, is that governments are:

> often more willing than some private investors to enter into high-risk projects and to adopt a long-run horizon-- a willingness to wait several years before profits are made and a willingness to re-invest all of the early profits rather than requiring dividend income.[187]

There are not the same demands on state companies for an immediate profitable return on their investment as there are on private companies. This explains private capital's heavy concentration of its resources in the more profitable fields in Alberta. This also explains why the state (through Petro-Canada) has increased its investment on the frontier, while private capital's investment in that area has declined. Furthermore, the state often acts as a last resort partner. This occurred in 1974 when Atlantic Richfield Canada Ltd. pulled out of the Syncrude project. With no other investors willing to invest, the governments of Canada

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[186] More will be said about the impact of the NEP on small Canadian oil companies below.

[187] Foreign Investment Review published by the Foreign Investment Review Agency Spring 1978 p. 13

(15%), Alberta (10%), and Ontario (5%) supplied the required capital.

> With the rising risk and soaring costs of many projects-- notably resource-development projects that require large amounts of capital, new technology, or the opening up of frontier areas-- the equity participation of governments may be vital. Governments may, in fact, be the last resort for completing the equity funding of certain projects.[188]

Hence this type of state action (direct state participation in the productive process) becomes imperative in contemporary capitalism in order to ensure the survival of capitalism.

Besides promoting the local accumulation of capital, what other effects has the presence of Petro-Canada had on the accumulation process? Theoretically, if the state company emphasizes profit-maximization and therefore acts much like a private company, there would be little change in the accumulation process, except perhaps to encourage capital to remain within the country.[189] For example, the state oil company would not pay dividends to foreign share-holders and it could raise all of its required capital internally. However, if the company raises capital on private money markets, as Petro-Canada is currently doing to finance part of its recent takeover of Petrofina, it might not even do this. It is also true that in some aspects of its behaviour Petro-Canada does depart from that of private capital. As was noted in the previous chapter, 60% of Petro-Canada's exploration budget is spent on the frontier, against an average of only 10% for the industry as a whole. This certainly, in the short run, reduces Petro-Canada's profitability. However, whether or not this acts as a barrier to capital accumulation in the longer term is difficult to predict.

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[188] IBID p. 13

[189] This would happen if the company pursued a buy-Canadian policy.

Another question that can be raised regarding Petro-Canada is whether or not it has in any significant way altered the prevailing (capitalist) relations of production. Although the state has significantly expanded its presence in the oil and gas sector since 1976, and further expanded it under the NEP, it is nevertheless true that in no way has this fundamentally altered the capitalist relations of production. The industry continues to be heavily dominated by private capital and the market mechanism of exchange has not been modified. Furthermore, bottom-line thinking predominates within Petro-Canada (although it is by no means independent of Cabinet directives which have been used, for example, in 1979 when Petro-Canada was ordered to negotiate state-to-state oil deals with Mexico). As well, there is no evidence that labour has any input into the running of the company, nor does Petro-Canada treat its labour any differently than a private company. Finally, takeovers have been conducted as they would be by any private firm (i.e. there have been no nationalizations). Clearly, Petro-Canada has not been created fundamentally to alter the prevailing capitalist relations of production but to reinforce them. Duvall and Freeman write in reference to this that,

> State ownership represents an effort to correct or overcome inadequacies in the functionings of the private sector, for the society, rather than an effort to transform social relations of production within the society (that is, class relations)... state ownership is carried out, for the most part, according to the rules of the game of the capitalist system. To a great extent, enterprises are acquired and/or established via standard capitalist routes (such as equity financing), operated as firms in private sector markets, and evaluated, in part, according to captialist evaluative criteria (such as profitability or return on investment.) Labor, then, is employed by the state; it is not a joint owner of social enterprise through the state.[190]

As has been emphasized above, this does not mean that Petro-Canada operates in exactly the same manner as a private company. Clearly there are some important differences. What has been stressed is that the basic capitalist relations of production in the petroleum sector have not been fundamentally altered.

There are two other direct instruments (in addition to FIRA and Petro-Canada) which the government intends to use to promote Canadianization. The first is the new Natural Gas Bank. The NEP states that:

> This Gas Bank will be prepared to purchase from Canadian-owned and Canadian-controlled firms gas that cannot find markets; to enter into joint venture operations; or to provide production loans.[191]

This type of state action, again, directly aides private

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[190] R. Duvall and J. Freeman op. cit. p. 104
[191] EMR NEP (1980) p. 42

Canadian capital.[192] Another federal institution which will be used to promote Canadianization is the National Energy Board (NEB). It will examine Canadian ownership levels before approving export applications. In reference to this the NEP states that:

> The Government of Canada would prefer that in granting such licences, the Board would give preference to Canadian-owned and Canadian-controlled firms.[193]

The other major (indirect) instruments developed to encourage greater Canadian participation in the oil and gas sector are the Canadian procurement regulations and the Petroleum Incentives Program (PIP). The institution of this incentive system marks a significant change with past incentives such as super-depletion[194] and earned depletion which had inadvertently led to greater advantages accruing to foreign rather than Canadian firms in the industry. Lalonde, speaking to Canadian and American financiers in New York, indicated the inadequacy of the former incentive system:

> Even as Canadians have been gaining confidence as risk-takers in the oil and gas business, it has become painfully evident that the odds have been stacked against them. Incentives in the Canadian tax system to encourage exploration and development have worked against newcomers to the business in favour of the largest petroleum companies. They have had the greatest amount of taxable income against which

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[192] It should be noted that with the NEP Update, released in June, 1982, the Gas Bank has been dropped.

[193] IBID p. 50

[194] The super-depletion allowance provided that all expenditures in excess of $5 million spent on wells drilled on the frontier would be deductible from income tax. The provision for super-depletion expired on April 1, 1980.

> to offset a generous array of deductions. Most of these companies are foreign-owned. An overhaul of the incentive system was long overdue on the grounds of simple fairness.[195]

Moreover, the old system did not encourage foreign firms to enter into joint ventures with Canadian companies. Thus, as Lalonde has explained,

> The phasing out of the incentives to the foreign-owned companies was put in the energy program to allow those companies to turn around and find Canadian partners and to bring Canadian ownership into their companies as they exist at the present time.[196]

By instituting the PIP, firms with a Canadian ownership rating of at least 65% (and which can prove that their Canadian ownership level has increased by 2%/year until it reaches 75% by 1986), qualify for cash grants of 80% of their exploration expenditures on the Canada Lands and 35% on provincial lands, and 20% of their development expenditures on both federal and provincial lands between 1981 and 1984. Those companies with a Canadian ownership level of 60% (and which raise their Canadian ownership level 1%/year to 65% by 1985) qualify for grants covering between 35% and 50% of their exploration expenditures on federal lands between 1981 and 1984 and between 0-15% on provincial lands in the same period. Grants for development expenditures are 20% on federal lands and 0-10% on provincial lands.[197] Table 5 illustrates how the incentive scheme works.

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[195] Globe and Mail November 27, 1980 p. 5

[196] House of Commons Debates October 29, 1980 1st Session, 32nd Parliament p. 4251

[197] EMR NEP (1980) p. 40 and Edmonton Journal February 17, 1981 p. C1

TABLE 5

Incentive Payments as a per cent of Eligible Expenditures

	COR Level(1)			
	1	2	3	4
CANADA LANDS				
Exploration				
1981	25%	35%	65%	80%
1982	25	45	65	80
1983	25	45	65	80
1984seq	25	50	65	80
Development				
1981	--	--	15	20
1982	--	10	15	20
1983	--	10	15	20
1984seq	--	10	15	20
PROVINCIAL LANDS				
Exploration				
1981	--	--	25	35
1982	--	10	25	35
1983	--	10	25	35
1984seq	--	15	25	35
Development(2)				
1981	--	--	15	20
1982	--	10	15	20
1983	--	10	15	20
1984seq	--	10	15	20

Notes:

(1) COR levels are as follows: Level 1-- less than 50% COR. Level 2-- 50% plus COR. Level 3-- 60% COR in 1981, increasing 1% per year to 65% by 1986. Level 4-- 65% COR in 1981, increasing 2% per year to 75% by 1986.

(2) These same grants are available for qualified costs in respect of non-conventional and tertiary oil projects and for crude oil upgraders.

(3) Canadian individuals are deemed to have Level 4 COR.

Source: Robert D. Brown; "Canada's National Energy Policy"' in The Journal of Canadian Petroleum; January-March 1981; Table 3.

It appears certain that the PIP, in combination with the phasing out of the earned depletion allowance for exploration expenditures outside the Canada Lands to 20% in 1982, 10% in 1983 and zero in 1984, and the elimination of depletion allowances for expenditures on conventional oil and gas development[198], will undoubtedly increase Canadian participation in the oil and gas sector. Indeed, developments within the industry in the first year of the program indicate that Canadianization is proceeding rapidly.[199]

Despite the discriminatory nature of the PIP the federal government does want and need foreign capital. With the capital required to finance the development of the heavily capital-intensive oil and tar sands projects, the Beaufort Sea programs, and the pipelines and tankers necessary to transport the oil and natural gas from these projects (especially in the Arctic) to market, estimated to be in the hundreds of billions of dollars over the next decade, the government recognizes the need for foreign capital. This was stated by Lalonde the day after the NEP was released:

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[198] EMR NEP (1980) p. 39

[199] The Financial Post estimated that as of July 1981 $6.5 billion had been spent on takeovers of oil and gas companies since October 1980. The Financial Post July 7, 1981 p. 2. Most recently the Ontario government has announced that it will purchase a 25% interest in Suncor, with the option to purchase a further 25% interest in the future.

> Our purpose is not to drive out all foreign companies by any means. As a matter of fact, ...the incentives for tarsands and heavy oil continue, including incentives for foreign companies.[200]

This same attitude has been repeated by the (former) Canadian Ambassador to the U.S.. In a Washington, D.C. speech in October 1981, Peter Towe emphasized that the oil and gas sector will require significant foreign investment over the next decade:

> Our investment needs in the oil and gas sector and for development in other sectors will be enormous in the next decade and beyond. We cannot meet these needs from our own resources.... Foreign investment is needed and welcome in Canada, provided it will benefit Canada as well as the investor.[201]

The final method through which the government intends to encourage Canadianization is through spin-offs and stricter Canadian procurement standards. Although the heart of these regulations is to be found in Bill C-48 which has not yet been finalized, preliminary statements of the government's intent can be found in the NEP. It states that,

> The National Energy Program also opens substantial new opportunities for Canadians in sectors other than energy. Energy-related investment will have spin-off effects that will stimulate the overall level of economic activity and foster rapid growth of businesses across the country, providing goods and services to the energy industry.[202]

Again, in legislating Canadian procurement regulations the state is working in the interests of private Canadian capital.[203]

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[200] House of Commons Debates October 29, 1980 1st Session 32nd Parliament

[201] Peter Towe "Canada's National Energy Program"; Washington, D.C.; October 20, 1981; p. 10.

[202] EMR NEP (1980) p. 105

Having noted the mechanisms through which Canadianization is to be enhanced, one must ask how successful these instruments have been in increasing Canadian content in the oil and gas industry in the 22 months since the release of the NEP. The most immediate response to the NEP came in February 1981 with Dome Petroleum's creation of Dome Canada, thereby allowing Dome to qualify for the maximum PIP grants. Other significant changes have involved Dome's acquisition of Hudson's Bay Oil and Gas from Conoco, Petro-Canada's takeover of Petrofina, CDC Oil and Gas's takeover of Aquitaine, and the Ontario government's acquisition of 25% of Suncor. Indeed, Canadianization had progressed so successfully by the end of 1981 that Marc Lalonde recently stated that if the present pace of Canadianization continues, the target of 50% Canadian ownership in the oil and gas sector would actually be exceeded by 1990.[204] Canadianization also seems to be having a positive effect in the area of spinoffs. For example, Gulf Canada Resources recently awarded $111 million in contracts to Canadian shipyards for the construction of three vessels for its Beaufort Sea drilling program.[205] Of course, the heart of the legislation for spin-offs and Canadian procurement requirements is contained in Bill C-48 which will be dealt with in the following chapter. However, it can be noted here that the provision of Canadian content regulations is further evidence of the state acting to benefit private Canadian capital as it is they who directly benefit from such policies.

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[203] More will be said about the potential impact of this aspect of the NEP in Chapter 4.

[204] Marc Lalonde in an October 1981 speech at the University of Alberta; Edmonton, Alberta.

[205] Energy Analects; December 4, 1981; p. 6.

One final issue which should be raised at this point concerns the extent of the government's commitment towards Canadianization. Was this policy designed solely for the oil and gas sector, or was it to be broadly applied to other areas of the energy sector, and indeed perhaps to other sectors of the economy? It is possible that the policy of Canadianization was to be applied to other sectors of the economy at one time, however it now appears that this is unlikely. This is evident in numerous government documents and speeches by both Trudeau and Herb Gray. In May, 1981 Gray had stated before a Commons committee that amendments were being made to the Foreign Investment Review Act. However, by December the government had backed off noticeably. In reference to the Foreign Investment Review Agency (FIRA), Gray has recently stated that,

> We are carrying out a review of administrative procedures to establish what changes may be warranted on the basis of the first seven years' experience with this program. But note that this is a review of the administration of the act, not the act itself.[206]

Furthermore, the 1980 Speech from the Throne had promised to strengthen FIRA.[207] However, this promise has also been rescinded. In a document released simultaneously with the 1981 budget, "Economic Development for Canada in the 1980s", it was stated that:

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[206] Edmonton Journal; December 15, 1981.

> In the Speech from the Throne in the spring of 1980, reference was made to three specific measures, two of which involved changes to the Foreign Investment Review Act. For the time being, no legislative action is intended on these measures until progress on the major initiatives already undertaken by the government has been assessed.[208]

It has also been clearly stated that Canadianization will not be applied to other sectors of the economy. The document referred to above states this clearly:

> The special measures being applied to achieve more Canadian ownership and control of the oil and gas industry are not, in the Government of Canada's view, appropriate for other sectors.[209]

The former Canadian Ambassador to the U.S., Peter Towe, has also refuted allegations that the NEP is a prelude to similar types of government programs in other sectors:

> The Canadian Government has dealt with energy as a special case. Special because of the threat that the instability of world oil supplies and prices poses to our economic security. Special because of the very high level of foreign participation in Canada's oil and gas industry.[210]

The most recent indication that the nationalism contained in the NEP will not be extended to other sectors of the economy, or other areas of the energy sectors, can be observed in a recently released federal discussion paper on mineral policy. It clearly states that Canadian ownership targets will not be established, nor will tax incentives discriminate against foreign-owned mining companies.[211]

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[207] This would be accomplished through performance reviews of large foreign firms, publicity about foreign takeover proposals, and government assistance to Canadian firms wishing to compete in takeover bids.
[208] Government of Canada; "Economic Development for Canada in the 1980s"; November, 1981; p. 13.
[209] IBID p. 12.
[210] P. Towe; "Canada's National Energy Program"; Delivered in Washington, D.C.; October 20, 1981; p. 7.

WHO WINS, WHO LOSES?

Overall, the significance of state action to directly encourage private Canadian capital to participate in joint ventures (both with the state oil company and with foreign companies forced to farm-out portions of their acreage to meet Canadian content requirements) is that it demonstrates the state working actively and directly to enhance the local accumulation of capital. This is so (theoretically) even for the small Canadian oil companies which have thus far not been able to take advantage of the incentives (for example, super-depletion) offered for frontier exploration. [212] Yet it is ironic that it has been precisely these small Canadian companies which have been among the most vocal opponents of the NEP. Independent Petroleum Association of Canada (IPAC) President Earle Joudrie complained that the NEP is,

> so bad, so ill-conceived, that it will founder because it is a disaster for the country.
>
> We believe the National Energy Program to be a major government intrusion into the private sector, a disaster for our industry and a tragedy for

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[211] Globe and Mail; March 9, 1982.

[212] see Budget Papers 1980 Department of Finance (October 28, 1980) p. 87

Canada,[213]

Canadian Hunter of Calgary President John Masters has registered one of the most vehement condemnations against the NEP,

> It is the filthiest thing I have ever heard of... it makes me sick to think of going around town trying to figure out who has been hurt the most and trying to buy them out. It's like the Nazis sending Brownshirts out to break the windows for the looter.[214]

In particular, the Canadian oil companies have reacted against the 25% back-in granted to Petro-Canada, the (initially) 8% (now 16%) Petroleum and Gas Revenue Tax (PGRT), and the Incremental Oil and Revenue Tax (IORT). In reference to Petro-Canada's 25% carried interest, Joudrie stated that: "This retroactive penalty against every company which has undertaken the high-risk, high-cost exploration work to date is confiscatory."[215] In addition, the Canadian independents reject the 16% (effectively 12%) PGRT which they claim has reduced their cash-flow by as much as 25%. There is considerable justification to this grievance, as the PGRT is a tax only on production income, and thus only on the upstream source of revenue. Since most of the Canadian independents are non-integrated firms with no profit-making interests in downstream activities such as petro-chemicals or retailing, this tax hurts them relatively more than it does the large integrated companies. Joudrie has argued that,

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[213] Globe and Mail March 11, 1981 p. B7
[214] Globe and Mail November 6, 1980 p. B1
[215] Globe and Mail January 15, 1981 p. B2

> The federal government has stated, and indeed insists, Canadian owned oil and gas companies are beneficiaries and the multi-nationals are the victims. That is simply not factual. True, the multi-nationals have been penalized; but we have become the greater casualties of the policy. More of these benefits we can do without.[216]

Yet the government claims that the frontier cash grants offer considerable incentives to the small Canadian companies to explore on the Canada Lands. However, it would appear that due to the enormous technical difficulties associated with frontier work where oil is far from easily accessible, that the expense required to explore, much less produce on the frontier is far too great for small Canadian companies, even taking into account the incentive grants. Thus, due to the heavy levels of taxation and the fact that frontier incentives are, in effect, beyond the reach of small companies, the NEP serves to work against the interests of the small and medium sized (Canadian) oil companies.

A number of the small independents have expressed their discontent by increasing their exploration activity in the U.S. and reducing Canadian exploration. For example, Northstar Resources Ltd. of Calgary, a Canadian company, announced its intention to increase the percentage of its 1981 exploration budget spent in the U.S. from a pre-NEP projection of 40% to 75%.[217] Plans have also been made by Canadian members of IPAC to reduce their spending in Canada by 33% in 1982 and 41% in 1983 from their pre-budget forecasts, while increasing their spending in the U.S. by 70% in 1982, and 88% in 1983.[218] Recently, the independents have lobbied the federal and Alberta governments to have the New Oil Reference Price "rolled back" for companies producing less than 1,000 barrels per day so that it applies to oil discovered since April 1, 1974.[219] The group also wants a "small producers' tax credit" which would exempt producers from provincial and federal taxes until their production values reach a threshold of $500,000 a year.[220]

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[216] Globe and Mail January 15, 1981 p. B2.
[217] Globe and Mail August 4, 1981 p. B10

From this response (and evidence presented below) it is ironic to note that although the NEP may well reduce the level of foreign ownership in the oil and gas sector, it will likely replace foreign concentration with Canadian concentration of a few firms. Ostensibly the NEP's objective is to aid all Canadian companies, irrespective of size. However, all evidence thus far indicates that (as concerns oil capital), it is primarily aiding a few large Canadian companies such as Petro-Canada, Nova, and Dome Petroleum, the latter being a company which is heavily concentrated on the frontier and which will reap maximum gains from the cash incentives offerred for frontier exploration and development.[221]

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[218] Colleen Taylor Sen "Canada's National Energy Program: An Update" in Energy Topics (Supplement to International Gas Technology Highlights) March 30, 1981.

[219] The world-level price currently only applies to discoveries made since January 1, 1981.

[220] Edmonton Sun; January 17, 1982.

[221] Dome currently has 7,000 b/d of production which qualifies for the New Oil Reference Price, and company President Bill Richards expects this will increase to 40,000

[221] Evidence for this argument lies in the fact that most of the takeovers since the NEP have involved relatively few companies. Dome Petroleum has acquired 100% of Hudson Bay Oil and Gas from Conoco of the U.S. (at a cost of $4.8 billion), increasing its asset value to approximately $6.0 billion, and making it the second largest oil company (in terms of assets) in Canada.[222] Petro-Canada took over Petrofina of Belgium, Sulpetro acquired Candel Oil, and CDC Oil and Gas took over Aquitaine of France. With the exception of Sulpetro, all of these firms taking over other companies are major Canadian oil and gas companies. As of July 1981 Canadian firms had spent $6.5 billion buying out foreign oil companies, but less than $1 billion of that has involved firms other than Dome Petroleum, Petro-Canada or the CDC.[223] Furthermore, the Presidents of both Dome and Nova have strongly endorsed the Canadianization thrust of the NEP. This is evident through Dome Petroleum's creation of Dome Canada which gives Dome the Canadian ownership it requires to qualify for the maximum incentive grants. Nova's President, Bob Blair has also supported the NEP, stating that his company "is happy to be in the forefront"[224] of Canadianizing the oil and gas industry. Blair has also indicated that Nova's subsidiary, Husky Oil, is "on the prowl to take over a large, foreign-owned petroleum

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[221](cont'd)b/d by 1985. Edmonton Sun March 11, 1982.

[222] The largest oil company is Imperial Oil with assets of $8 billion.

[223] Financial Post July 7, 1981 p. 2

[224] October Summer 1981 p. 23

company,".[225] It should also be noted that Nova, as a major gas producer, will also benefit in general from the off-oil policy continued in the NEP, and in particular from the extension of the gas pipeline[226] to the Maritimes.

From this evidence it would appear that, despite intentions to the contrary,[227] thus far the NEP has resulted in an increase in the consolidation and concentration of a relatively few Canadian firms in the oil and gas industry. Wendy Dobson speculates about this possibility in "Canada's Energy Debate":

> The possibility that a few large Canadian firms will take over the foreign-owned companies is not to be ruled out, however-- but such a possibility could also mean that foreign control will be exchanged for increased concentration by Canadian firms.[228]

With the way the takeovers have proceeded since the NEP it would appear that this is indeed the case.

Another major interest to benefit from the new energy policy is large central Canadian capital-- firms such as Seagrams which has a reported $4 billion on hand and is prepared to invest in the energy sector, Power Corporation, and the Argus Corporation. Paul Desmarais, chairman of Power Corporation, has endorsed the Canadianization objective of the NEP, as "it gives us an opportunity to invest in the oil and gas business."[229] In the last three years Power Corporation (through its subsidiary Consolidated-Bathurst) has invested almost $150 million in Western Canadian energy projects. [230] Recently, in April 1981, Consolidated-Bathurst bought a 20% interest in Sulpetro Oil Company of Calgary. Another central Canadian interest to gain from the NEP is the Argus Corporation, owner of Norcen Energy Resources Ltd. [231] Norcen has "applauded the government's intent to create more incentives and opportunities for Canadian companies" on the frontier.[232] Norcen's President, E.G. Battle, says that the frontier exploration grants "will permit us to spend several hundred million dollars a year more on this area."[233] Furthermore, Argus' Chairman, Conrad Black, has recently indicated that he is hoping for "a possible deal with a major oil company" that would sell its Canadian operations.[234] This evidence indicates that large oil capital and central Canadian industrial capital are to be the major beneficiaries from the latest energy policy.

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[225] IBID p. 23
[226] in which it holds a 50% interest.
[227] EMR NEP (1980) p. 51
[228] Wendy Dobson "Canada's Energy Debate" C.D. Howe Institute 1981 pp. 31-32

In assessing this outcome, one finds that although the state does maintain some degree of autonomy in its actions, the degree to which certain fractions of Canadian capital stand to gain from the NEP indicates that the state, ultimately, acts primarily in the interests of private capital. As Miliband argues in explaining the concept of 'relative autonomy':

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[229] cited in October Summer 1981 p. 21

[230] IBID p. 21

[231] Norcen, being 75% Canadian owned, qualifies for the maximum federal incentive grants.

[232] October Summer 1981 p. 27.

[233] Globe and Mail April 16, 1981 p. B3

[234] cited in October Summer 1981 p. 22

> it (relative autonomy) simply consists in the degree of freedom which the state (normally meaning in this context the executive power) has in determining how best to serve what those who hold power conceive to be the 'national interest', and which in fact involves the service of the interests of the ruling class.[235]

Finally, there are three additional interests which gain considerably from the NEP: the governments of Canada and Alberta, and consumers. John Helliwell and Robert McRae have demonstrated in a recent analysis of the effects of the NEP on revenue distribution, that the major beneficiaries of the NEP in terms of revenue distribution are the federal and provincial (oil producing) governments, and energy consumers.[236] They demonstrate that out of a total economic rent (the surplus remaining after expenses have been met) of $519 billion ($1980), the oil and gas industry will receive $25 billion (5.2%), Canadian energy consumers, $212 billion (42.2%), the federal government $76 billion (15.1%), and the provincial (producing) governments $188 billion (37.5%). An additional $133 billion is calculated to be lost through waste due to the efficiency loss associated with lower prices. Hence, the NEP represents a substantial transfer of economic rent to both producing governments and energy consumers. In this respect then, the NEP does serve interests outside those of private capital. In this, one can detect some autonomy in state action.

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[235] R. Miliband *Marxism and Politics* Oxford University Press 1977 p. 83.

[236] J. Helliwell and R. McRae "The National Energy Conflict" in Canadian Public Policy Winter 1981.

THE STATE AS A CAPITALIST-- AN EMERGING TREND?

Before proceeding with an analysis of the response of the oil and gas industry to the NEP, it is necessary to analyze the role of the state in energy policy. As was briefly outlined in Chapter 1, one method of analyzing direct state participation in the economy (or more specifically for the purposes of this thesis, the energy sector) has been to portray the state as acting as a capitalist. This type of analysis has become increasingly popular in recent years and is characteristic of the work of Petter Nore, Peter Evans and Robert Duvall and John Freeman. However, while there are some characteristics of the Canadian state's involvement in the oil and gas sector which are compatible with the state as a capitalist thesis, on the whole this analysis is not suitable in explaining the Canadian state's participation in the oil and gas sector. But before explaining the reasons for this it is first necessary to explain what the concept of the "state as a capitalist" means.

This type of argument is really a state capitalist one which predicts that the state will greatly expand in coming years, to the point where it will become the dominant producer in the oil and gas sector. Is this a realistic assumption to make about the growth of Petro-Canada (or other state oil companies) in the next decade? It is argued here that it is not. Evidence for this lies in the fact that before the Petrofina takeover, Petro-Canada accounted for only about 3% of the petroleum industries' revenues.[237] Even with the takeover of Petrofina this level has increased to only 5.5 percent. Further substantial growth is unlikely because this would squeeze two of the state's major instruments of Canadianization-- Nova and Dome. Although these companies are presently quite willing to enter into joint ventures with Petro-Canada, it is likely that they will press for limits to be placed on the further expansion of the state oil company. Indeed, Lalonde himself has indicated that the state does not intend to allow unlimited expansion of the state oil company.

> the National Energy Program fosters an increase in public ownership of petroleum assets to a point large enough to ensure a strong public sector role in the industry and small enough to keep the industry *overwhelmingly* in the private sector.[238]

Of course Lalonde argues that Petro-Canada has an important part to play ensuring that the federal government has a significant presence in influencing change in the oil and gas sector. However, the major actor in that sector will nevertheless remain private capital.

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[237] Petro-Canada's revenues before the takeover of Petrofina were $976 million in 1980 or 2.83% of the oil and gas industry's total revenue of $34.5 billion. If Petrofina's 1980 revenues are added to Petro-Canada's, the total equals 5.5% of total industry revenues.
Calculations made from "Energy's Top 100" in Energy; September 1981.

[238] Marc Lalonde; Energy Forum; Fall 1981 p. 10. Emphasis added.

The (former) Canadian Ambassador to the U.S., Peter Towe, has also emphasized the limited role that the public sector will play in the future in the energy sector. In a speech given in Washington, D.C. late in 1981, Towe stated that:

> The Government does intend to enlarge the role of the public sector but it will remain relatively small. Companies like Petro-Canada will continue to be at the forefront of high risk developments. But the success of the NEP will depend primarily on private investment.[239]

Secondly, the state as a capitalist thesis requires that the state do more than merely facilitate conditions that are favourable to the accumulation of (private) capital. (For example through granting generous tax concessions or in general fostering an attractive business climate.) It must itself, as an entity in its own right, directly participate in the accumulation of capital. But is the state (through Petro-Canada) directly participating in the accumulation of capital? Basically it is not. Certainly the government has injected large amounts of funds (from general revenues) into Petro-Canada since its formation in 1976. However, to date almost all of Petro-Canada's growth has resulted from acquisitions and hence there has been little net accumulation of capital in the oil and gas industry as a result of Petro-Canada's presence. What little net expansion of capital Petro-Canada has contributed has come from its frontier investment. However, even here the net contribution has been modified by the fact that all of Petro-Canada's exploration has been in joint ventures. The other method through which Petro-Canada might contribute to capital accumulation is through re-investing its profit in further oil and gas investment. However, to date Petro-Canada has not been a very profitable operation. Although its profits have increased steadily from $3.3 million in 1976[240] to $30.2 million in 1979[241], and $55.7 million in 1980[242], to date Petro-Canada has yet to enjoy high profit levels. Of course, as the 1980 profit figure suggests, this is changing and it can be reasonably predicted that Petro-Canada will become a more profitable operation over the next decade. But to date, Petro-Canada's profits have not in any significant way contributed to capital accumulation in the oil and gas sector.

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[239] Peter Towe; "Canada's National Energy Program'; Washington, D.C.; October 20, 1981; p. 6.

Another indication that the state is acting as a capitalist is when it undertakes, in Nore's terms, "offensive nationalizations." But again, this criteria does not match Petro-Canada's actions. To date the state has not nationalized a single oil company. All of its expansion has occurred through takeovers conducted as any private firm would proceed in a takeover. Petro-Canada has bought the shares on the open market and made offers for the remaining outstanding shares. No legislation has been passed compelling a private company to sell out to the state.

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[240] Petro-Canada Annual Report 1976
[241] Petro-Canada Annual Report 1979
[242] Petro-Canada Annual Report 1980

The final factor mitigating against the state as a capitalist thesis is that with the Canadianization of the oil and gas sector (a good part of which has been through private means) proceeding at a rapid pace,[243] and with the government being very optimistic about the financial outlook for the petroleum sector over the longer term, there will not be the same necessity to expand the state oil company for Canadianization purposes as existed prior to October 1980. Hence, due to the reasons outlined above, the state as a capitalist thesis remains inappropriate in explaining and predicting state action in the energy sector.

RESPONSE TO THE NEP-- "CANADIANIZATION EQUALS NATIONALIZATION"

Not surprisingly, the response of most of the oil and gas sector (particularly those companies with a high level of foreign ownership) has been hostile towards the NEP. In particular, objection was raised to the PIP which was condemned as "discriminatory",[244] the 25% back-in granted to Petro-Canada, the more stringent Canadian ownership requirements, the Canadian procurement requirements, and the increased ministerial discretion.[245] Even Dome Petroleum, before creating Dome Canada (a company with only one employee) to get around the Canadian ownership requirements condemned the NEP. Bill Richards, President of Dome Petroleum, complained that it was "unbelievable that a budget like this would ever be produced in Canada."[246]

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[243] Marc Lalonde, in an October 1981 lecture in Edmonton, indicated that if the present pace of Canadianization continues, the target of 50% Canadian ownership in the oil and gas sector would actually be exceeded by 1990.

[244] Edmonton Journal October 29, 1980 p. C2

A common response, intended to put pressure on the federal government to alter the NEP and Bill C-48 [247] has been to publicly announce a reduction in exploration and development expenditures in Canada. For example, Gulf Canada announced its intention to reduce its 1981 exploration budget by $130 million,[248] and Mobil Canada reduced its 1981 exploration budget from a planned (pre-NEP) level of $100 million to $50 million, a decision made by Mobil's head office in the U.S..[249] Although the industry's reaction was predictably hostile it appears that their threats to reduce exploration in Canada have had but a marginal impact on federal energy policy since the NEP. True, the new pricing agreement essentially gives the world price for "new" oil and it significantly increases the price of conventional oil (or "old" oil) after 1982, but it is also accompanied by new and heavier taxes.[250] Nevertheless it is likely that this change was inevitable, and due not to industry pressure but more likely to the pressure of fiscal crisis felt from within the government, and from the Alberta production cutbacks, the third of which would likely have caused additional imports at the world price. Indeed, pressure on the federal government was mounting on all sides (from business, consumers and the provinces) to resolve the dispute with Alberta. Thus it would appear that oil capital had little influence on the final format of the new pricing agreement.

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[245] Globe and Mail March 27, 1981 p. B2
[246] Calgary Herald October 29, 1981 p. A2
[247] There have already been some changes to Bill C-48. These will be dealt with in Chapter 5.
[248] Edmonton Journal June 23, 1981 p. E6
[249] Richard Gwyn "The Issue is Power: Alberta vs Ottawa" Edmonton Journal February 2, 1981 p. A6

The following section will examine briefly the federal-Albertan conflict over pricing since the NEP, followed by an examination of the September, 1981 pricing agreement which resolved that conflict (at least temporarily). The most important pressure bearing on this conflict for the purpose of this thesis was the intensifying fiscal crisis in the period of the late 1970s and early 1980s.

FEDERAL-PROVINCIAL RELATIONS OVER ENERGY AND FISCAL CRISIS

As was argued in Chapter 2, the continuing conflict between Ottawa and Edmonton has had a great deal to do with a struggle for power. This conflict intensified with the release of the NEP in October 1980 spawning a fairly widespread western separtist movement in Alberta. A number of issues continued to be at the heart of the conflict. As was common to the 1970s, pricing and revenue-sharing were again the major components in the dispute. This was initiated by the fact that the original pricing schedule set out in the NEP (the blended price) was so low that the increases it allowed would not even have matched the projected rate of inflation over the next five years.[251] Alberta wanted prices for conventional oil to reach $37.25/barrel by January 1, 1984[252] while the NEP offerred only $25.00/barrel by that date. Indeed, the pricing proposals contained in the NEP were so low that they could not be taken seriously. This was reinforced by the fact that no mention was made of a price for frontier oil. The other contentious issue contained in the NEP was the tax on all gas production, including exports. This meant, in effect, that the federal government had levied an export tax, something Alberta objected to on constitutional grounds.

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[250] for example the Incremental Oil and Revenue Tax (IORT) and a higher PGRT.

With the publication of the NEP relations between Ottawa and Edmonton reached a new low, with almost a year passing before the pricing issue was finally resolved. Before examining this new agreement however, it is first necessary to discuss the emergence of a new factor in the late 1970s which is important to explaining federal actions in the energy sector-- that of fiscal crisis. As O'Connor explains it, fiscal crisis occurs because the state provides more and more services (e.g. education, medicare, infrastructure, etc.), but receives insufficient revenues to finance these undertakings.

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[251] Michael Walker "The National Energy Program: Overview of Its Impact and Objectives" p. 14 in G.C. Watkins and M.A. Walker (eds.) *Reaction: The National Energy Program* The Fraser Institute 1981
[252] "Alberta's 'Energy Package' Proposal Including Commitments for Canadian Energy Self-Sufficiency" July 25, 1980 p. 1

> Although the state has socialized more and more capital costs, the social surplus (including profits) continues to be appropriated privately.... The socialization of costs and the private appropriation of profits creates a fiscal crisis, or "structural gap," between state expenditures and state revenues. The result is a tendency for state expenditures to increase more rapidly than the means of financing them.[253]

This is precisely what has happened to the federal state. In particular we are concerned with how this has affected state actions in the energy sector. As a preliminary statement, one can draw a direct link between the presence of fiscal crisis and the demands for more revenue contained in the NEP, and the recent pricing agreement which provides considerably more revenue to the federal government.

As the fiscal arrangements are an enormously complex issue it is obvious that they cannot be examined here in great depth. However there are a number of critical elements which must be mentioned so as to demonstrate the existence of a fiscal crisis. Three primary components are equalization payments, the deficit (the latter becoming even more critical in light of record high interest rates), and the oil import compensation program.

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[253] James O'Connor *The Fiscal Crisis of the State* St. Martin's Press 1973 p. 9

The fiscal arrangements which only came into effect in 1972 provided for provincial equalization payments based on all major revenue sources. However, the system of payments became inappropriate in 1973-74 after the four-fold oil price increases by OPEC. If Alberta was to sell her oil at comprable prices it was estimated that her energy royalties would increase by $2 billion annually.[254] Ontario would have then become a have-not province and be entitled to equalization payments,[255] thereby significantly increasing the financial strain on the federal government. The severity of the problem was alleviated by two measures: fixing the domestic price of oil well below the world price and establishing a tax on oil exports, essentially all of which accrued to the federal government. Secondly, changes were made to the equalization formula such that only one-third of additional energy royalties earned after 1973-74 were included.[256] A further alteration was later introduced in 1977 such that the equalization formula included 50% of provincial revenues derived from non-renewable resources.[257] However, despite these changes Ottawa's equalization payments continued to increase.

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[254] Thomas Courchene "Equalization Payments and Energy Royalties" in A.D. Scott (ed) *Natural Resources Revenues: A Test of Federalism* University of British Columbia Press 1976 p. 73-107 cited in D. Smiley *Canada in Question: Federalism in the Eighties* 3rd edition McGraw-Hill Ryerson Ltd. 1980 p. 169

[255] Although no equalization payments have been yet paid to Ontario, Courchene estimates that the amount owed is $1 billion. see Thomas Courchene "The National Energy Program and Fiscal Federalism: Some Observations" in G.C. Watkins and M.A. Walker (eds) *Reaction: The National Energy Program* The Fraser Institute 1981 p. 85

[256] D. Smiley op. cit. p. 170

The revenue-sharing formula which existed before the NEP also affected the equalization formula. Before the NEP (and the recent pricing agreement) which substantially increases the amount of revenue accruing to the federal government[258] the amount accruing to Ottawa was very low. Indeed, part of the reason prices have been restrained throughout the 1970s was because of the impact higher prices for Alberta would have had on the equalization formula. Thomas Courchene demonstrates that a mere $1/barrel increase in the price of domestic oil would result in an increase in equalization payments of $78.1 million.[259] Although this amount would have been covered by the increase in revenue accruing to the federal government ($100 million), as Courchene points out, the key is that the increased federal revenue "would not cover (the) incremental equalization burden if Ontario were deemed to be eligible to receive equalization."[260]

The second major element of fiscal crisis is the federal deficit which has increased from $614 million in

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[257] D. Smiley op. cit. p. 170

[258] The split before the NEP was commonly put at 45% to the producing provinces, 45% to industry and 10% to the federal government. After the pricing agreement the federal share rises to 29%, the provincial share declines to 34% and industry's share falls to 37%.

[259] see Thomas Courchene op. cit.. In *Reaction: The National Energy Program* p. 83.

[260] Thomas Courchene IBID p. 82

1972 to $12.1 billion in 1979.[261] This reflects a situation in which federal expenditures are far outpacing revenues. With the petroleum industry accounting for 30% of all profits made in Canada towards the latter part of the 1970s, it is not surprising that it became a target for increased revenues.[262] Table 6[263] illustrates the growing federal deficit between 1970 and 1979 and contrasts this with the relatively healthy provincial accounts of British Columbia, Saskatchewan and Alberta, the primary oil and gas producing provinces.

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[261] Canadian Tax Foundation *The National Finances, 1979-80* 1980 p. 63
[262] Financial Post March 7, 1981 p. 8
[263] cited in L. Pratt "Energy: The Roots of National Policy" Table 2 Studies in Political Economy Winter 1982.

TABLE 6

Surplus and Deficits of Federal and Provincial/Local Governments National Income and Expenditure Accounts

1970-1979

	Federal	Sask.,Alta. B.C.	Other Provs.	Federal	Sask.,Alta. B.C.	Other Provs.
	($ millions)			(Percent of GNP)		
1970	266	-67	-586	0.3	-0.1	-0.7
1975	-3805	377	-2624	-2.3	0.2	-1.6
1976	-3356	929	-3916	-1.8	0.5	-1.7
1977	-7693	1784	-2355	-3.7	0.8	-1.1
1978	-11357	2532	-2538	-4.9	1.0	-1.0
1979	-9169	3284	-2551	-3.5	1.3	-1.0

Source: Government of Canada, Department of Finance, *Economic Review: A Perspective on the Decade*, April, 1980 Tables 11.1 and 11.8.

Another development which has indirectly increased the financial strain on the federal government has been the substantial outflow of capital from Canada for foreign takeovers. This has placed considerable downward pressure on an already-weak Canadian dollar, forcing increased payments for federal programs such as the Oil Import Compensation Program. Indeed, concern mounted to the point that Finance Minister Allan MacEachen requested that the chartered banks reduce the number of loans made to companies for the purpose of foreign takeovers. It is significant to note that an important cause of this capital drain, Canadian takeovers of foreign-owned oil companies, was specifically exempted from this appeal for restraint. This demonstrates that the government is concerned about the capital outflow (and the weakness of the dollar), but is still firmly committed to Canadianization in the oil and gas industry. As Lalonde has stated,

> The message is still Canadianize. The Canadianization program has the full endorsement of the cabinet and the minister of finance. It's a matter over the next short while of pacing ourselves a little bit better than we have in the last few months.[264]

The final source of strain on federal finances that will be examined here is the Oil Import Compensation Program. Table 7 shows that the cost of the oil import subsidy has exceeded federal revenue from the Oil Import Compensation Charge from 1975-76 to 1979-80. This has contributed significantly to the "fiscal crisis" now prevailing within the federal state.

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[264] Edmonton Journal August 1, 1981 p. A10

TABLE 7

REVENUES FROM OIL EXPORT CHARGE AND EXPENDITURES FOR OIL IMPORT COMPENSATION PAYMENTS

($ millions)

	1973 -74	1974 -75	1975 -76	1976 -77	1977 -78	1978 -79	1979 -80
Revenue							
Oil Export Tax	287	224	--	--	--	--	--
Oil Export Charge	--	1,445	1,063	661	432	328	735
Total Revenue	287	1,669	1,063	661	432	328	735
Expenditure							
Oil Import Subsidy	157	1,162	1,582	945	925	628	1,575
Prov. Share of Export Tax	143	111	--	--	--	--	--
Total Expenditure	300	1,273	1,582	945	925	628	1,575
Net Revenue (Expenditure)	(13)	396	(519)	(284)	(493)	(300)	(840)

Source: Budget Speech; December 11, 1979 p. 45.
Department of Finance; Government of Canada.

All of these factors contributed to the "fiscal crisis" of the federal state in the late 1970s and early 1980s, thereby forcing the government to take action to expand its revenue base. Hence, the NEP was designed with one of its major objectives being to increase the amount of revenue flowing into federal coffers. The final section will examine the latest measure which the federal government has taken in the oil and gas sector to attempt to alleviate the acute strain of fiscal crisis. This is, of course, the federal-Alberta pricing agreement.

THE SEPTEMBER 1981 PRICING ACCORD

The September 1981 agreement between Alberta and Ottawa represented the first agreement on oil and gas pricing between the two levels of government since 1975. This agreement is significant for a number of reasons. First, it has meant that the drawn-out battle over pricing has, for the moment at least, been resolved. Alberta has restored the production cutbacks, given the the go-ahead to Alsands and Cold Lake, and most significantly, accepted the principle objective of the NEP-- Canadianization. Indeed, Alberta has even agreed to pay the PIP costs (estimated at $4.3 billion) over the (5 year) length of the agreement. On the federal side, the agreement institutes a pricing schedule which is much more acceptable to both levels of government and to industry. [265] The agreement differs from the original pricing schedule in that it distinguishes between "old oil" (that discovered before January 1, 1981) and "new oil" (that discovered after December 31, 1980) and provides a pricing schedule for frontier oil which was not specified in the original NEP. Furthermore, the September/1981 agreement allows for much larger price increases which will benefit all actors involved, but most significantly, the federal government. Under the old schedule the price of a barrel of oil was to increase by $2.00/year until 1983 and after that by $4.50/year until 1985 followed by increases of $7.00/year until 1990. By July 1, 1986 the price would have been $38.75/barrel. Under the new agreement the (old oil) price rises much more rapidly, increasing by $8.00/barrel per year until 1986. On July 1, 1986 the price will be $57.75/barrel. [266] This price is significantly higher than that set out in the 1980 NEP. A comparison of the two pricing schedules is set out in Table 8.

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[265] However, it is important to note that business is far from satisfied with the new pricing agreement (in particular the new and heavier taxes which it contains). This will be examined below.

[266] It is important to note that the price for old oil will never be allowed to exceed 75% of the world price for oil, less transportation costs to Montreal.

TABLE 8

Comparison of pricing schedules

Year	NEP Wellhead Oil Price	New agreement conventional old oil wellhead price(1)	Estimated New oil reference price(2)
Jan 1980	14.75	--	--
Aug 1980	16.75	--	--
Jan 1981	17.75	--	--
July 1981	18.75	--	--
Oct 1 1981	18.75	21.25	--
Jan 1 1982	19.75	23.50	45.92
July 1 1982	20.75	25.75	49.22
Jan 1 1983	21.75	29.75	53.06
July 1 1983	22.75	33.75	57.06
Jan 1 1984	25.00	37.75	60.18
July 1 1984	27.25	41.75	63.48
Jan 1 1985	29.50	45.75	66.83
July 1 1985	31.75	49.75	70.23
Jan 1 1986	35.25	53.75	74.08
July 1 1986	38.75	57.75	77.48
Jan 1987	42.25	--	--
July 1987	45.75	--	--
Jan 1988	49.25	--	--
July 1988	52.75	--	--
Jan 1989	56.25	--	--
July 1989	59.75	--	--
Jan 1990	63.25	--	--
July 1990	66.75	--	--

Notes: 1) For conventional old oil, the wellhead price will never exceed 75% of the world price.
2) The NORP will not exceed 100% of the international price of oil.

Source: EMR NEP 1980 p. 26.
"Memorandum of Agreement between the Government of Canada and the Government of Alberta relating to Energy Pricing and Taxation" September 1, 1981 pp. 2&4.

The new agreement also establishes a price for new oil, which includes conventional oil discovered after December 31, 1980, synthetic oil and oil from the Canada Lands, which approximates (but will never exceed) the world price for oil. (See Table 8.)

How does the new pricing agreement alter the thrust (if at all) of the original NEP? Who benefits from the new pricing agreement and who loses? The most obvious characteristic of the new agreement is that it generates a tremendous amount of revenue-- some $212.9 billion over the five year life of the agreement. Of this, according to Ottawa,[267] the federal government will receive 25% (or $54.3 billion), Alberta 30% (or $64.3 billion), and industry 44% (or $94.2 billion). (See Table 9.)

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[267] These figures have been disputed by academics and the industry.

TABLE 9

REVENUE-SHARING ESTIMATES 1981-1986
(billions of dollars)

Government of Canada	
Canadianization Levy	1.4
Natural Gas and Liquids Tax	12.5
Oil Export Tax	0.2
Incremental Oil Revenue Tax	6.2
Net Petroleum and Gas Revenue Tax(2)	14.3
Corporate Income Tax	19.7
Surplus Petroleum Compensation Charge(1)	--
SUB-TOTAL	54.3
GOVERNMENT OF ALBERTA	
Royalties and Freehold Tax	61.2
Alberta Incentives Programs(3)	(4.2)
Oil Export Tax	0.2
Corporate Income Tax	3.9
Land Payments	8.1
Petroleum Incentive Payments	(4.3)
Canadianization Grants for Synthetic Oil	(0.6)
SUB-TOTAL	64.3
INDUSTRY	
Cash Flow	73.7
Operating Costs	23.7
Petroleum Incentive Payments	4.3
Land	(8.1)
Canadianization Grants for Synthetic Oil	0.6
SUB-TOTAL	94.2
TOTAL REVENUES	212.8

(1) Surplus Petroleum Compensation Charge is any revenue accruing to the Government of Canada in excess of the amount required to rinance oil import compensation and oil qualifying for the New Oil Reference Price.

(2) Petroleum and Gas Revenue Tax less Government of Canada PIP payment.

(3) Includes Alberta drilling and geophysical incentives, new oil and gas royalty holidays and enhanced recovery royalty relief.

Source: Memorandum of Agreement between the Government of Canada and the Government of Alberta relating to Energy Pricing and Taxation. Table 3 September 1, 1981.

This is considerably more than any of these participants would have received from the original pricing schedule. Indeed, it has been estimated that the new agreement gives the federal government an additional $14 billion, the Alberta government $8 billion, and industry $10 billion.[268] All of this serves to reinforce the argument of this thesis that the state is not working solely at the behest of private capital, but in its own interest as well. This is also evident in the fact that the response from industry to the agreement has been mixed at best. Although small oil capital can benefit from the higher price for new oil, it is nevertheless very concerned over other aspects of the agreement, in particular the increase in the PGRT from 8% to an effective rate of 12%. As mentioned above, this tax hits the smaller, non-integrated companies particularly hard as virtually all of their revenue is derived from production revenues and hence (unlike the integrated companies with downstream profit-making activities) is subject to the tax. Although they stand to gain from the incentive to explore for new oil (and receive the world price) this is of questionable value as it is anticipated that most of the remaining oil in Canada will be found offshore or in the Arctic. Evidence for this lies in the fact that the federal government believes that 80% of Western Canadian oil has already been discovered. The Geophysical Service Council, a federal agency, estimates that in order to discover between 2.6 billion and 3.3 billion barrels of oil in the West, 22,000 wells would have to be drilled. However, only 150 wells off the East coast or 75 wells in the Mackenzie River delta of the Beaufort Sea would be required to produce the same amount of oil.[269] Hence it appears that the amount of accessible conventional oil remaining in the West is small. Furthermore, PIP incentives for exploration on provincial lands are significantly smaller that those on federal lands. Thus it appears that although small oil capitals' position has been improved by the pricing agreement, this improvement is only marginal. In light of the above conditions, small oil capital is not a major beneficiary from the new oil agreement.

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[268] see B. Scarfe and B. Wilkinson "The New Energy Agreement: An Economic Perspective" paper presented at the Ontario economic Council Outlook and Issues Conference October 28, 1981 pp. 31-32.

Nor does foreign-owned oil capital make substantial gains from the agreement. Their major grievance was with the PIP which has remained unchanged. In addition, they now have another major irritant with which to contend, the Incremental Oil Revenue Tax (IORT). This is a tax which will be levied at a rate of 50% on incremental oil revenue which is defined as the difference between the actual revenue received by a company and the revenue it would have received under the original NEP pricing schedule. Furthermore, the PGRT has been increased. However, foreign-owned oil capital will nevertheless receive substantially more for their production and due to this they are better off than before the agreement.

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[269] see Anthony McCallum "Oil Companies Shifting funds to frontier" in the Globe and Mail; January 4, 1982.

The major beneficiaries from the new agreement are big Canadian oil capital, and the Alberta and federal governments, particularly the latter. Frontier oil is now to receive the world price and it is Dome Petroleum which is the major beneficiary of this. Nova is another Canadian company which benefits considerably from the agreement. The Alberta government also does well by the agreement, not only due to the additional revenue (some $8 billion) it will receive, but also because stability can now be restored to the industry, thereby allowing investment in the province to increase and the mega-projects to proceed.[270]

However, it is the federal government which profits the most from the new agreement. As mentioned above, it is to receive an estimated total of $54.3 billion from the pact, some $14 billion more than what it would have received under the original pricing schedule. How does one explain this? It has been established above that the federal government is currently experiencing a fiscal crisis. Hence it requires revenue which the pricing agreement certainly provides. Indeed, due to fiscal crisis and the fact that the original pricing schedule was so low (along with the significant omission of a frontier oil price) it was argued above that the first schedule was only a bargaining position. It has been the government's intention for some time now to increase its revenue from the oil and gas sector and to ensure that Beaufort Sea production goes ahead. The new pricing agreement intends to ensure that both these objectives are met.

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[270] Both Alsands and Cold Lake, for the present at least, have been abandoned; however, this was due more to high interest rates and falling world oil prices than to the inadequacy of the September 1981 agreement.

From this analysis one can observe that different fractions of capital benefit in differing degrees from the September 1981 pricing agreement. Indeed, taken in isolation, it can be argued that all fractions of oil capital improve their position, albeit in varying degrees. Hence the agreement certainly benefits private oil capital, as opposed to consumers who are required to pay significantly more for energy. However, the agreement primarily benefits the (federal) state and in this sense one can argue that the state, in coming to this agreement, is serving both its own and private (oil) capital's interests.

CONCLUSION

The objectives of this chapter have been two-fold. First, to demonstrate that although some change can be seen with past policy, on the whole the NEP maintaines considerable continuity with the energy policy that developed throughout the 1970s. The second and more important objective (the argument for which will continue in the next chapter) is that although certain fractions of capital (namely particular components of oil capital) have opposed the NEP, it has nevertheless been designed to benefit Canadian capital. In particular, it benefits large Canadian oil capital-- companies such as Dome Petroleum and Nova, and central Canadian capital. The next chapter will continue this argument, focusing on Bill C-48 and the provisions contained therein which actively favour Canadian industrial capital.

IV. Bill C-48

INTRODUCTION

With the release of the National Energy Program in October, 1981 most industry and press attention was initially focused on the actual NEP document. However, there was another integral component of federal energy policy released almost simultaneously with the October 28 document-- Bill C-48, and it is this legislation that will be examined below. Briefly, this legislation requires higher levels of exploration and development activity on the Canada Lands than had been required in the past; increases ministerial discretion concerning the declaration of a significant discovery, the drilling of wells, and the commencement of production; provides Petro-Canada with a 25% "back-in" or carried interest on any lease located on the Canada Lands; and requires that Canadian industrial capital capture a significant portion of the spinoffs generated by frontier oil and gas exploration.

Bill C-48 has proven to be a highly controversial piece of legislation as native groups, the producing provinces, and the foreign-owned oil companies have vociferously opposed its enactment. Objections to the legislation centre around four aspects of the bill: increased ministerial discretion, 50% Canadian ownership of the oil and gas industry by 1990, Petro-Canada's preferential access to frontier lands (basically through the 25% back-in granted to the crown on all land not currently in production), and the requirement that Canadian companies capture a significant percentage of the industrial spin-offs generated by oil and gas-led growth. This chapter will examine all of these complaints, through which the argument of the last chapter, that the NEP and Bill C-48 basically serve the interests of oil and central Canadian capital will be continued.

There are three sections to this chapter, the first focusing on certain elements of Bill C-48 which illustrate how the frontier legislation encourages Canadianization through preferential treatment accorded to the state oil company, Petro-Canada, and concomitantly, which serves (through other provisions) to benefit Canadian capital. The second section will focus on oil capital's response to Bill C-48 as found in testimony presented to the National Resources and Public Works Committee hearings held in reference to Bill C-48. The final section will examine the foreign response which Bill C-48 (and the NEP) has engendered.

CANADIANIZATION

Petro-Canada and Canadianization

There is little doubt that Bill C-48 is a crucial component of the NEP. This was expressed by Lalonde before the National Resources and Public Works Committee hearings on Bill C-48:

> It is a key element to the National Energy Program. It will provide the framework for the careful management and successful development of the huge oil and gas potential of the Canada Lands for many decades.[271]

As an integral component of federal energy policy, it is not surprising that Bill C-48 should reflect the basic objectives outlined in the NEP. Hence, Bill C-48 has been designed to expand the federal government's control over the oil and gas industry on the Canada Lands, to encourage Canadianization and to benefit certain fractions of Canadian capital. It does this in three basic ways; first, through increased ministerial discretion and the special privileges it provides to Petro-Canada; secondly, through its provisions for Canadian procurement regulations and spin-offs which will benefit Canadian industry, and finally through the requirement that for production to begin on the frontier, the operating company must attain 50% Canadian ownership.

There is little doubt that one of the major objectives of the Liberal's latest energy policy is to expand the federal government's control over the oil and gas sector. This was argued in Chapter 2 as one of the reasons explaining the establishment of Petro-Canada, and in Chapter 3 as explaining the expansion of Petro-Canada under the NEP. Bill C-48 also encourages the expansion of federal control over the oil and gas industry through two basic methods: 1) the 25% back-in provision granted to Petro-Canada ; and 2) through the increased ministerial discretion granted to the Minister of Energy, Mines and Resources.

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[271] National Resources and Public Works Committee Issue 49 May 14, 1981 p. 49:11

There is little doubt that the state oil company benefits tremendously from Bill C-48 as it is to receive a carried 25% retroactive interest in all lands on the frontier on which commercial production had not begun prior to January 1, 1976.[272] The legislation states that,

> Her Majesty in right of Canada is hereby vested with and the Minister on Her behalf shall hold a twenty-five per cent share
> (a) in an interest provided under this act in respect of lands that were Crown reserve lands immediately prior to the provision of the interest;[273]

It is further stated that this Crown interest may be transferred to a designated Crown corporation,[274] which would likely be Petro-Canada. With these provisions, the state oil company will likely acquire thousands of acres of promising land on the frontier. Obviously then, Petro-Canada will gain substantially from the new frontier legislation. However, this is not to suggest that the state oil company was not in a preferential position to acquire frontier acreage prior to the enactment of Bill C-48. Indeed, since the release of the first draft of the new Oil and Gas Act (in December 1980) the federal government worked very hard to deal as much frontier acreage to the state oil company before the frontier land regulations were finalized.

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[272] Bill C-48 House of Commons First Reading December 9, 1980 p. 11
[273] IBID p. 11
[274] IBID p. 11

According to Park Sullivan, chief of the Department of Indian Affairs's Oil and Gas lands division, Petro-Canada would lose its existing preferential claims (granted by the 1977 interim frontier land regulations) to frontier land once the regulations formed under Bill C-48 became law. [275] Evidence of this past preferential treatment of Petro-Canada can be found in the fact that the state oil company recently acquired approximately 3 million acres in the Northwest Territories as a result of two exploration agreements reached by Petro-Canada with the Department of Indian and Northern Affairs in April 1981. [276] But under Bill C-48 Petro-Canada benefits from more than just preferential access to frontier lands; it also, being 100% Canadian, is eligible for the maximum (PIP) incentive grants for exploration and development on both provincial and federal lands. Petro-Canada's Senior Vice-President of Finance and Planning, Joel Bell, has estimated that Petro-Canada will receive approximately $130 million in PIP grants for 1981.[277] Thus from both the incentive grants and the 25% back-in on federal lands, Petro-Canada stands to gain substantially from the new frontier oil and gas legislation. As was pointed out in the last chapter this strengthening of the state oil company is part of the government's strategy to Canadianize the oil and gas industry.

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[275] Globe and Mail May 1, 1981 p. 9
[276] Globe and Mail May 1, 1981 p. 9
[277] National Resources and Public Works Committee Issue 53 May 28, 1981 p. 53:29

Of course Petro-Canada contributes to Canadianization in ways other than merely through its direct presence in the oil and gas sector. As was mentioned in the last chapter, the state oil company is also intended to encourage Canadianization through joint ventures with Canadian companies. This has been stated by Petro-Canada's Chairman, Wilbert Hopper:

> Petro-Canada, by virtue of being the only large Canadian landholder in the highly prospective east coast offshore, a participant in every major play there, and the only Canadian operator on the east coast, is trying to assist the entry of Canadian companies, both large and small into this investment area.[278]

Indeed, according to Hopper the NEP has already achieved some success in attaining this objective, as he claims that (due to the NEP and the PIP) a "great number" of Canadian companies have already expressed an interest in operating with Petro-Canada off the east coast and generally on the frontier.[279] However, to date all of Petro-Canada's joint-venture projects have been conducted with large oil capital. Due to the high expense, technical complexity and long lead times of frontier operations, it appears doubtful that many small Canadian oil companies will enter into joint ventures with Petro-Canada on the frontier. Rather, it is more likely that these joint-ventures will continue to be conducted with a relatively few large oil companies.

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[278] National Resources and Public Works Committee Issue 53 May 28, 1981 p. 53:9
[279] IBID p. 53:9

But why has the government chosen to expand the role of the state oil company on the frontier? What explains the rationale behind the encouragement of joint ventures (on the frontier) with private capital? It has already been argued that an important reason for this lies in the determination of the federal government to expand its control over the crucially important oil and gas sector. Further explanation for this strategy can be found in the fact that oil is a strategic commodity and as such its reliable supply is of utmost importance to the smooth functioning of the economy. The federal government has determined that the future of Canadian oil supplies will come from the frontier and it wants to ensure that these supplies are developed. Although generous incentives (for example, super-depletion) have been made available to Canadian capital to explore and develop the frontier, past experience has demonstrated that this is not necessarily enough to ensure that exploration and development will proceed. Hence the state has expanded its direct role in frontier activity to ensure that oil, essential to the accumulation process, continues in abundant supply. Thus far this has been done primarily through joint-ventures between Petro-Canada and private capital. Fundamentally then, increased state participation on the frontier stems from the fact that the state does not believe that exclusive private operations on the frontier will generate the development of frontier oil. Frontier exploration and development is very costly and offers a relatively uncertain rate of return.[280] Hence, the state must intervene directly to reduce the risk of the operation and entice private capital to participate. Ernest Mandel writes in general terms about this type of state action in the phase that he terms "late capitalism":

> More and more investments are rendered possible only by direct or indirect State subventions, not because the bourgeois class is short of capital in an absolute sense, but because the conditions of valorization of capital have deteriorated to such an extent that the entrepreneurial risk will not be taken without guarantee of profitability from the bourgeois state.[281]

Hence, one can explain the state's participation with private capital (through Petro-Canada) on the frontier as a attempt to reduce risk for private capital and thereby increase the attractiveness of frontier exploration and development. Ultimately, this will ensure a reliable future supply of oil so as to allow the accumulation process to continue and hence maintain the capitalist mode of production.

Aid to Canadian capital

Although the advantages granted to Petro-Canada have been condemned by most of the oil industry[282], even greater hostility has been expressed (most notably by the foreign-owned and controlled oil companies and the United States government) over those sections of Bill C-48 dealing with Canadian content regulations, and the requirement of 50% Canadian ownership before production can begin on the frontier. These provisions while, clearly discriminating against foreign capital, at the same time are designed to benefit Canadian capital, notably industrial and manufacturing capital. The clearest expression of the Canadian content regulations can be found in sections 10(3) and 3.2(2) of Bill C-48. They state that,

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[280] relative, that is, to the return to be gained in Alberta.

[281] Ernest Mandel *Late Capitalism* Verso Edition London 1973 p. 574

[282] This was documented in chapter 3 and will be further illustrated below.

> An exploration agreement shall require the holder, prior to commencing any work program, to submit a plan satisfactory to the Minister for the employment of Canadians and the use of Canadian goods and services in carrying out that work program. [283]

And again,

> Before authorizing any work or activity... the Minister shall require the applicant to submit a plan satisfactory to the Minister for the employment of Canadians and the use of Canadian goods and services in the work or activity.[284]

Clearly these provisions serve to benefit Canadian industrial capital. Indeed, the federal government is quite prepared to openly recognize this. Referring to Bill C-48, the NEP states that,

> The new legislation will also provide strong requirements for the procurement of equipment and services in Canada. Through Petro-Canada, and through its other departments and agencies, the federal government is prepared to discuss with Canadian firms ways to ensure local procurement for as large a share as possible of the equipment and services required by anticipated multi-billion-dollar offshore activities.[285]

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[283] Bill C-48 House of Commons First Reading December 9, 1980 p. 6
[284] IBID p. 46
[285] EMR NEP (1980) p. 82

The federal government has taken a fairly drastic step in legislating that a certain percentage of goods and services used in the oil and gas sector must be of Canadian origin. Yet it is one deemed necessary as the government has been very concerned that to date most goods and services currently used in Canada's offshore activities are imported. Finance Minister Allan MacEachen states that,

> The major oil companies have exhibited a tendency to rely on their parent companies and traditional supply lines in procuring supplies.... the consequence of this policy can be a severely diminished role for local industry.[286]

Indeed, MacEachen estimates that approximately 85% of goods and services currently used in Canada's offshore activities are imported. It is in response to this condition that Bill C-48 has been designed to reverse this trend. This is clearly stated by MacEachen:

> We intend to bring about a dramatic reversal in this situation. Competitive Canadian suppliers will be found and developed.
>
> The Canada Oil and Gas Act will provide the framework for achieving this objective. Under the act, companies that wish to develop a reserve must present a development plan to the federal government, demonstrating that they have provided Canadian suppliers with a fair opportunity to provide goods and services on competitive terms.[287]

From these statements of government policy one may discern the recognition by the federal government of the tremendous growth that will take place in the oil and gas industry in the next decade, and a determination to ensure that the spin-offs from such growth be captured by Canadian industrial and manufacturing sectors. Indeed, a very conservative estimate states that 75-80 percent of the equipment requirements for oil and gas related refineries, pipelines and the tar sands could be supplied by Canadian manufacturers, this representing $32 billion ($ 1980) in orders between 1980 and 1990.[288] A more recent study estimates that between 1981-1990, $339 billion ($ 1981) will be spent in Canada on new capital investment in plant and equipment in the energy sector.[289] Furthermore, one can also observe that the effect of this legislation primarily (directly) benefits Canadian industrial capital. By legislating that a certain percentage of goods and services used in frontier projects be supplied by Canadian companies, the state is actively working to promote the local (e.g. Canadian) accumulation of capital. Once again, the provisions contained in Bill C-48 concerning the percentage of Canadian goods and services to be used in frontier oil and gas projects demonstrates that the federal government is manifestly not working against the interest of private capital, but rather to strengthen private Canadian capital.

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[286] Financial Post July 4, 1981 p. C4

[287] Financial Post July 4, 1981 p. C4

The other aspect of Bill C-48 that serves to benefit Canadian (both oil and non-oil) capital is the requirement of 50% Canadian ownership in any company that undertakes production on the frontier. In regards to this Bill C-48 states that:

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[288] Barry Beale *Energy and Industry* Canadian Institute for Economic Policy Ottawa 1980 pp. 52-3.

[289] in Andrew G. Kniewasser "Canada's Investment Program, 1981-2000" Foreign Investment Review Autumn 1981 p. 15.

> no production licence shall be granted or renewed unless the Minister is satisfied that the applicant would be a beneficial owner of the licence and...
> (b) if a corporation, the licensee would be incorporated in Canada and have a Canadian ownership rate of not less than fifty per cent;[290]

This requirement, particularily in combination with the PIP grants, directly benefits Canadian oil capital as they are given a strong incentive to invest further on the frontier. However, the government also wants the Canadian ownership requirement to encourage non-oil capital to invest in the oil and gas industry. As Lalonde has commented in regards to his energy policy in general,

> I hope we've provided the incentive and the leadership that will ensure that the Canadian business community and the Canadian investor are going to want to play a much larger role in the oil and gas industry than they have in the past.[291]

It is not too surpising that foreign response[292] to Bill C-48 has been hostile. However before detailing this response I will first examine some of the changes that have been made to Bill C-48 since it was first introduced into the House of Commons in December 1980.

Changes to Bill C-48

On the whole the changes that have been made to Bill C-48 were ones to be expected and are not major changes that substantially altered the thrust of the legislation. Thus the changes to Bill C-48 dealt primarily with technical matters, such as lengthening exploration agreements (under exceptional circumstances) from 5 years to as much as 8 years, extending the date for "pioneer production" (production for which the oil and gas rights will remain in force according to their existing terms and conditions) from January 1, 1976 to December 31, 1980, making it clear that the PGRT is deductible from the PIR and extending the PIR "holiday" so that it will apply to fields where "the discovery of oil or gas is the result of a well that was spudded prior to December 31, 1980, and that qualifies to be declared a significant discovery prior to December 31, 1982." [293] The only significant change is in reference to Petro-Canada's "free" 25% back-in. Under intensive pressure from the industry and the financial press, the federal government has decided to reimburse the effected companies for 25% of the exploration costs for land in which Petro-Canada takes a 25% working interest. However, this payment will not be paid in cash, but in kind (e.g. oil or natural gas) and will be paid out of Petro-Canada's production from that particular acreage.[294] However, despite these changes (including the provision requiring Petro-Canada to pay past exploration costs on acreage in which it converts its carried interest to a working interest) oil capital's response to Bill C-48 has remained, for the most part, hostile. It is this response that will now be examined.

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[290] Bill C-48 op cit p. 7-8
[291] Canadian Business February 1981 p. 41
[292] the EC and most vocally the United States government

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[293] National Resources and Public Works Committee Issue 49 May 14, 1981 p. 49:14

[294] National Resources and Public Works Committee Issue 49 May 14, 1981 p. 49:20.

INDUSTRY'S RESPONSE TO BILL C-48

Although IPAC and individual small Canadian oil and gas companies have reacted negatively to the new frontier land legislation, this section will focus primarily on the response of the major (primarily foreign-owned) oil companies, as it is these companies that have stood to lose the most from the legislation, and hence have generally been the most vocal in their opposition. However, it must be noted that, as with the response to the NEP, reaction to Bill C-48 was again varied, even within the large oil companies. For instance, the foreign-owned companies (especially those with significant amounts of acreage on the frontier) were quite unhappy with the legislation, while large Canadian-owned companies which have considerable frontier acreage, and qualify for maximum incentive grants (such as Dome Petroleum [295]), were on the whole satisfied with the legislation. However, within the large foreign-owned and controlled firms[296] the response was generally consistent. For example, there was unanimous opposition to the retroactive 25% back-in granted to Petro-Canada. The President of Shell Resources Canada Ltd., J.M. MacLeod, stated that his company considered the 25% back-in to the state oil company to be "retroactive confiscation which we consider to be inherently unjust."[297] A number of companies testified that Petro-Canada's preferential access to frontier land should only apply to future discoveries on new land grants. In essence, this amounted to an argument for the status quo as most of the promising acreage on the frontier had already been claimed. This is evident from the fact that when previous frontier regulations allowed Petro-Canada preferential access to acreage in August 1977, the state oil company found little worthwhile acreage amongst the 1 billion acres then available. Indeed, much of this land had been previously held by private companies but had been turned back to the crown.[298] This explains private oil capital's willingness to allow Petro-Canada access to new land grants. Most of the promising acreage is already under lease to these private companies, and hence would not be affected by such acquisitions by the state oil company.

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[295] Dome Petroleum has 9.4 million net acres in the Arctic Islands and 4.7 million net acres in the Beaufort Sea. National Resources and Public Works Committee Testimony by Dome Petroleum Issue 43 April 1, 1981 p. 43A:9

[296] The companies specifically examined were Gulf Canada, Mobil Canada, Shell Canada, Imperial Oil, Texaco Canada and the Canadian Petroleum Association, the latter not itself an oil company, but the major mouthpiece for the large (primarily foreign-owned) oil companies.

Another initial complaint with Bill C-48 relating to Petro-Canada was that the state oil company was given the 25% back-in, yet was not required to pay past exploration expenses. Lalonde justified this by claiming that "there will be a 25 per cent federal cash incentive grant available to all explorers to offset the 25 per cent Crown share...."[299] However, as noted above, industry's grievances regarding this issue have been satisfied, as the state has since backed off in the face of industry pressure and has agreed to finance past exploration expenses when Petro-Canada activates its 25% carried interest.

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[297] National Resources and Public Works Committee Issue 39 March 24, 1981 p. 39:25

[298] Oilweek September 5, 1977 p. 5

The final area of contention with Bill C-48 concerns the increased ministerial discretion which the Bill contains. This is clear from a citation of just two sections of the Bill:

> The Minister, at any time after making a declaration of significant discovery, may order the drilling of a well or wells on the relevant Canada lands... to commence within one year after the making of the order or within such longer period as the Minister specifies in the order.[300]

And again,

> The Minister... may require any interest holder specified in the order
>
> (a) who, in the opinion of the Minister, has the capability to commence production of oil or gas, to commence producing oil or gas for use in a Canadian domestic market and deliver the oil or gas so produced at the times and places and in the quantities specified in the order, for sale to persons specified in the order, at prices specified in the order,... [301]

There are many other sections of the document that serve (potentially) substantially to increase the Energy

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[299] National Resources and Public Works Committee Issue 49 May 14, 1981 p. 49:18

[300] Bill C-48 House of Commons First Reading December 9, 1980 p. 25

[301] IBID p. 26

Minister's influence over the oil and gas sector.[302] This expansion of ministerial control is quite consistent with the objective of the entire NEP-- to increase federal state control over the vital oil and gas sector. Although private oil capital has strongly opposed this increased ministerial control, it would appear that with the federal government is intent upon establishing more direct control over the industry,[303] that their protests will prove of little significance.

As with many other elements contained in the NEP, IPAC has again allied itself with the large oil companies in responding to Bill C-48. For instance, it has condemned the 25% back-in provisions for the state oil company, labelling this "confiscatory"[304], and it has opposed the increased ministerial discretion contained in the bill.[305] Indeed, it appears that there is little contained in Bill C-48 which would satisfy the smaller Canadian independents, other than the requirement that for production to begin on frontier lands, the company involved must have 50% Canadian ownership, a criteria which most small Canadian companies would fulfill. There is at least one Canadian oil company which has generally approved of Bill C-48-- Dome Petroleum.

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[302] For example, see sections 27, 32, 33, 42 and 43 of Bill C-48 (first reading) December 9, 1980.

[303] Expanded ministerial control is only one facet of this process; others are the expanded role for Petro-Canada, and the effect of the PIP grants on federal territory.

[304] Natural Resources and Public Works Committee Issue 45 April 7, 1981

[305] IBID

Although Dome has expressed concern over the increased ministerial discretion, and the 25% back-in to the crown[306], Dome has reacted quite favourably towards Bill C-48. This is not surprising as Dome stands to benefit considerably from the NEP as a whole[307] and hence does not wish to spark any hostility with the federal government.

As can be seen from the above, the foreign-owned industry's response to Bill C-48 has been largely negative. However, it has not been overtly hostile. Instead of directly pressuring the federal government, the foreign-based companies have taken a different, more indirect, approach-- intensive lobbying of the U.S. Congress. The next section will deal with the foreign responses to Bill C-48, focusing primarily on the response of the United States government.

FOREIGN RESPONSE TO BILL C-48

Although criticism of the NEP and Bill C-48 has come from varied sources, the most vociferous response has been from the United States. Initially, American response was low-key[308]. However, as industry pressure has been fully mobilized in months subsequent to the release of the NEP and

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[306] Dome potentially stands to lose quite a bit due to this provision as it holds a working interest in approximately 23 million acres of oil and gas rights on the frontier. see Natural Resources and Public Works Committee Issue 43 April 1, 1981

[307] This is due to the near world price which Dome will receive for its frontier production, and the general commitment of the federal government to frontier oil.

[308] see Calgary Herald October 30, 1980 p. A3

Bill C-48, tactics such as quiet diplomacy have been abandoned for those of a more overt and threatening nature.

U.S. criticism is based on the premise that Bill C-48 violates 1976 OECD guidelines which were intended to prevent foreign investment discrimination, as well as trade obligations required by Canada's signing of the General Agreement on Tariffs and Trade (GATT). In particular, the offending sections of Bill C-48 deal with the provisions that require all companies to procure a certain percentage of their goods and services from Canadian companies,[309] and the requirement that 50% of the oil and gas industry be Canadian owned by 1990.[310]

As mentioned above, the initial American response was low-key, this being most likely due to the fact that the Reagan administration had not yet assumed office. Initial reaction came when a group of eight U.S. officials, including representatives of the State and Energy Departments, raised the issue of Canadianization during a meeting with Energy, Mines and Resources officials in Ottawa in November 1980.[311] However, little was to result, at least publicly, from this meeting. Since this initial reaction to the NEP, industry lobbying has gained increasingly greater acceptance within the United States Congress and the State Department. The executive Vice-President of Cities Service

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[309] The acceptable amount will be determined and approved by the federal government.

[310] Globe and Mail November 8, 1980

[311] Globe and Mail November 8, 1980

Company, Philip Wood, has spoken against the NEP (and Bill C-48) saying that it has created a situation in which, "certain opportunistic Canadian companies-- aided and abetted by Canadian banks-- can fearlessly conduct raids on U.S. companies."[312] Appearing before a Congressional Energy and Commerce sub-committee, Wood requested that Congress enact emergency legislation to temporarily suspend acquisitions of American energy companies by Canadians. [313] The U.S. government has responded to industry pressure. One State Department official has stated in reference to the NEP and Bill C-48 that,

> What we have in the case of the latest round of Canadian measures on energy is a very large and massive retreat from the principles of national treatment,[314]

He warned of possible U.S. retaliatory action, saying that there were,

> many examples of significant Canadian investments in the U.S. which could be taxed, regulated or legally constrained, one way or another.[315]

U.S. Commerce Secretary, Malcolm Baldrige, has also criticized Canada's foreign investment policies, specifically labelling the NEP and Bill C-48 "discriminatory". Furthermore, he has stated that "they (the NEP and Bill C-48) are inconsistent with an enlightened international investment policy and international obligations."[316] Baldrige has hinted that the U.S. may take legal action by seeking damages under the GATT.[317] Further U.S. reaction came in March 1981 when the U.S. Trade representative to Canada informed Industry, Trade and Commerce Minister Herb Gray that the U.S. intended to ask for "formal consultations" with Canada under the GATT in consideration of Bill C-48's provisions for preference to Canadian suppliers of goods and services in energy projects on federal lands.

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[312] Globe and Mail June 20, 1981 p. 1
[313] IBID p. 1
[314] Globe and Mail June 6, 1981 p. B1
[315] IBID p. B1

Besides these vocal threats emanating from U.S. government officials, more concrete action has been taken in Congress where a number of pieces of legislation (designed, for the most part, to discriminate against Canadian investment in the U.S.) have been proposed. Amongst these is a bill to deny Canadian companies access to oil and gas leases on U.S. federally controlled lands, and a bill which would establish stricter margin requirements for Canadian companies (financed by large Canadian banks) taking over American companies, thereby limiting the ability of Canadian companies to takeover U.S. firms. Finally, there have been threats of legislation which would impose a moratorium on takeovers of U.S. companies by foreigners.[318]

Canada's reaction to this growing hostility from the U.S. Congress has been low-key and to continue to conduct private discussions with U.S. officials concerned over the energy policy. As well, there has been a determination not to back down in the face of growing threats of retaliation. This position has been taken by both Lalonde and Prime Minister Trudeau. The latter, while meeting with President Reagan in November 1981 at Grand Rapids Michigan made it clear to the U.S. President that Canada would not alter its latest energy program. As Trudeau related his discussion with the U.S. President about Canadian energy policy to the press, he stated that, "in that field I told him there was no question of our backing down."[319] In defence of the NEP the federal government claims that although Canada did agree to the OECD principle of non-discrimination against foreign investment, certain reservations to this principle were made because of the existence of FIRA. These stated exceptions, the government claims, make the NEP consistent with Canada's obligations to OECD principles.[320]

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[316] Globe and Mail July 7, 1981 p. B6

[317] IBID p. B6

[318] Globe and Mail July 27, 1981 p. B1

Is Canadian energy policy out of line with other energy producers in the capitalist world? A brief examination of other western energy producers indicates that they too discriminate between foreign and domestic investment. R. Donald Pollock, Chairman of the Industrial Policies Committee of the Science Council of Canada, writes that,

> A 1977 OECD (Organization of Economic and Cultural Development) survey found 17 of the 24 responding countries had legislation which treated foreign-owned firms differently from domestically owned firms. The survey also found a long list of

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[319] Globe and Mail September 26, 1981 p. 13

[320] Globe and Mail February 26, 1981 p. B2 and Globe and Mail June 22, 1981 p. B1

> U.S. federal and state policies in which foreign firms did not receive the same treatment as U.S. firms.[321]

In particular, the U.S. discriminates against foreign investment in the fields of atomic energy, domestic air transport, acquisition and exploration of federal mineral lands, hydro-electric power and shipping.[322] Indeed, in reference to these discriminatory laws, the Canadian Ambassador to the U.S., Peter Towe, has noted that,

> In maritime transport, carriers with sizeable foreign investment are not eligible for construction and operating differential subsidies. The Jones Act confines the transport of merchandise in U.S. waters to U.S.-built and U.S.-owned ships.
>
> Nationality restrictions are also applied to U.S. flag carriers involved in foreign maritime trade, to foreign banks and to the broadcasting industry. And a great deal of state legislation differentiates between foreign and national corporations.[323]

As for other oil producers, in Britain the British National Oil Company (BNOC) has the right to 51% of oil production. In Norway, Statoil may claim up to a 50% interest in any lease it does not already hold, without paying past exploration expenditures. Finally, Australia also has nationalist policies in its energy sector. For example, it requires that a minimum 25% of equity investment in any energy producing property be Australian owned and that the foreign companies involved be publicly committed to increasing the Austrialian share to 51%. [324] When one examines this evidence, along with the fact that the existence of "free trade" has long been a myth[325], one can only conclude that the U.S. response to Canada's latest energy policy in no way can be construed as a defence of the lofty principle of "free trade", but rather as an effort to simply protect American-owned firms with investments in Canada.

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[321] R. Donald Pollock "Why the U.S. is putting the squeeze on Canada" Globe and Mail October 23, 1981 p. 7.

[322] IBID p. 7

[323] Globe and Mail October 14, 1981 p. B2.

Although the major objections to Bill C-48 have been raised by the United States, opposition to the legislation has also come from two other governing bodies-- the EC and the OECD. In May 1981 the EC sent an official communique to the Canadian government objecting that the NEP proposals to increase Canadian ownership and control of the petroleum sector were discriminatory against foreign investment, and as such were inconsistent with Canada's cooperation agreement with the EC and with the 1976 OECD guidelines (agreed to by Canada) on the treatment of foreign investment.[326] The OECD also claims that the NEP and Bill C-48 contravenes these guidelines on foreign investment. However, there is evidence that pressure from the U.S. has resulted in this OECD position, as the U.S. made formal complaints about the NEP at the March 1981 meeting of the

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[324] Pollock op cit p. 7

[325] Briefly, one need only note President Nixon's 1971 unilateral imposition of a 10% across-the-board surcharge on all goods entering the U.S., and the proliferation of non-tariff barriers to trade (such as quotas, health and safety standards etc.) in recent years.

[326] Globe and Mail May 5, 1981 p. B1

OECD's Codes Committee on International Investment and Multinational Enterprises (CIME).[327]

CONCLUSION

As in Chapter 4, the objective of this chapter has primarily been to demonstrate that the new frontier oil and gas legislation (Bill C-48) serves to reinforce the federal government's objective, as revealed in the October 1980 energy document, to aid private capital. Of course, Bill C-48, with its Canadian procurement regulations does little to enhance the interests of oil capital. Indeed, one might argue that Bill C-48 even works against the interests of some fractions of oil capital (notably foreign-owned oil capital) due to the provisions it provides for Petro-Canada, its requirement that for production to begin on the frontier the participating companies must be at least 50% Canadian owned and controlled, the increased ministerial discretion and the more stringent work requirements. Rather, the benefits it provides are intended to accrue to non-oil Canadian capital such as the industrial and manufacturing sectors. This again demonstrates both the non-monolithic nature of private capital in Canada and the relative autonomy of the state.

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[327] Financial Post June 6, 1981 p. 20

V. Conclusion

It has been the objective of this thesis to examine the latest energy policy released by the federal government and to explain: 1) why the policy was developed; 2) who are the major beneficiaries and losers under the program; and 3) why did so much controversy accompany the NEP's release and every phase of its implementation. The latter question requires an understanding of state action, and ultimately an explanation of the state's relationship to private capital.

It has been concluded that the formation of the NEP demonstrates a state working fundamentally in the interests of private capital (albeit at times in the long-run). Of course, the federal state itself also stands to benefit significantly from the latest energy policy, and this proves that there is some degree of autonomy in state action. It does not always work exclusively in the interests of private capital. This assertion is further supported by the fact that certain fractions of capital clearly suffered from a number of the policies found in the NEP

An historical approach to this thesis has been adopted because it allows one to place the NEP in a context, and to identify the areas of continuity and change with past policy. Thus one can observe the governments' first active recognition of the need to reduce foreign ownership in oil and gas in the 1976 energy document, and the 1976-77 frontier land regulations. One can also observe the beginning of direct state intervention in the oil and gas sector with the formation of Petro-Canada in 1976. These earlier developments indicate that many of the policies contained in the NEP (specifically, Canadianization, the expansion of the state oil company, and the extension of federal control over frontier oil and gas development) maintain a considerable amount of continuity with past policy.

Although the NEP ultimately is an attempt to serve the interests of private capital (and the federal state), a monocausal explanation cannot be used to explain the formation of the NEP. Thus the analysis which portrays the state as simply the "executive committee of the bourgeoisie" has been rejected. Numerous factors, domestic and international, political and economic, all influenced the design of the new energy policy. Of these, five major factors have been identified. 1) The continued existence of foreign domination of the oil and gas sector. It had been the federal government's objective to reduce the level of foreign ownership since 1973 and with the world price of oil doubling in 1978-79, it was realized that Canadianization must occur very soon or the foreign-owned companies would be forever priced out of the reach of Canadian firms. 2) The fiscal crisis developing at the federal level of government, particularly after 1978-79 when oil import compensation payments increased greatly due to the large oil price increases on the international market. It was imperative that this source of fiscal drain be reduced immediately.

Hence, the NEP provides for the gradual transfer of bearing the cost of imported oil from the general revenue fund directly to the consumer. This was done by the imposition of the Petroleum Compensation Charge. In addition to the PCC, other taxes (PGRT, NGGLT, and IORT) were also introduced in an attempt to alleviate the growing fiscal crisis. 3) The federal government also identified the oil and gas sector as the leading sector of economic growth in the 1980s. In October, 1980, both Cold Lake and Alsands were still viable, the Beaufort Sea was showing promising signs of containing large quantities of oil, and Hibernia had recently been drilled with positive results. The development of all of these projects would not only bring to Canada the increased probability of oil self-sufficiency, but also a tremendous stimulus to economic growth. Estimated capital expenditures for just Alsands and Cold Lake ran over $20 billion ($ 1980). The government was determined that the majority of the financial benefits of projects such as these remain within Canada. Hence, Bill C-48, with its stipulations that a significant number of the spinoffs from these ventures (on the frontier) be captured by Canadian business, was designed as an integral component of the NEP. 4) Another important factor influencing the design of the NEP was the existence of bitter federal-provincial animosity over the control and development of oil and gas resources. There is no doubt that Ottawa was becoming increasingly concerned over Alberta's burgeoning Heritage Fund and the implications this could have for federal control of the economy. If Canadian oil and gas prices were allowed to be deregulated, Alberta's wealth and influence would expand even more. Thus, it has been argued that the NEP was designed, in part, to offset the growth of Alberta's petroleum revenue and increase federal control in the oil and gas sector. In support of this argument it has been shown that the NEP provided for an expansion of the state oil company, and instituted the PIP grants which were designed to lure investment away from conventional regions (found primarily in Alberta) to the frontier. 5) The final, and probably the least significant, factor which has been identified as explaining the NEP was the role of electoral politics. The idea of a creating a new, nationalist energy policy was initiated during the 1980 election campaign and there is no doubt that, at least in part, this was done to capture electoral support. However, to cynically argue that this was the major purpose of the NEP, ignores the influence of more compelling factors such as the influence of fiscal crisis, the desire to use the oil and gas sector as the stimulus to economic growth, the importance of federal-provincial conflict, and the desire to reduce foreign domination of the oil and gas sector. All of these factors carry more weight in explaining the NEP than does the argument which explains the NEP primarily as the reflection of electoral considerations.

Although these five factors have been identified as explaining the NEP, how can one more fundamentally conceptualize state action in this instance? This brings us back to the fundamental question posed at the beginning of the thesis. In which interests does the state ultimately work? It has been argued that one cannot simply maintain that the state always and necessarily acts in the immediate interests of private capital. Although there is no doubt that the state does ultimately act in the interests of capital, there is also some necessary autonomy to its actions. Capital is not an homogenous, monolithic entity with identical interests. Rather, it is fractured, disunified and its varying fractions are often in distinct opposition to each other. Furthermore, it is not always possible for capital to identify what is in its best long-term interests. It is obvious that the NEP did not satisfy a number of fractions of capital-- small oil capital, foreign oil capital-- as well as the Alberta government, the U.S. government and the federal opposition. Why was the NEP opposed so stridently by these interests? It was argued that the fact that the NEP was opposed so strenuously by business and governments cannot be explained solely through the argument that the bourgeoisie cannot recognize what is in its best interests. Clearly, different fractions of capital, as well as the consumer and the state, benefit in varying degrees from the NEP. On the whole, this fact demonstrates that some degree of state autonomy does exist. In supporting this argument it was shown that, with the original NEP, consumers were temporary winners as the domestic price of oil was to rise at a rate below the rate of inflation. However, with the September 1981 pricing agreement, this no longer held. In fact, at least in the short-run, the consumer is the definite loser from the September pricing agreement. Small and medium sized oil capital, both foreign- and Canadian-owned, have also been significant losers from the NEP. This is due primarily to the higher levels of taxation. In particular, the smaller companies are hit expecially hard by the PGRT. This is a tax levied only on production revenue and as such hits the small non-integrated companies much harder than the large, integrated firms. The smaller firms are also hurt by the NGGLT, and the IORT (as are the major firms). Furthermore, the small companies, due to their relatively small cash-flow and lack of expertise, are not in a position to take advantage of the generous PIP grants which are heavily weighted towards frontier exploration. However, there is one element of the NEP which does benefit the smaller firms. This is the pricing of new oil at the world price. Of course all companies, large or small, foreign- or Canadian-owned, benefit from this.

Another major interest which loses from the NEP is foreign-owned oil capital, firms such as Texaco, Mobil, and Imperial Oil. This is due primarily to the phasing out of depletion allowance, and its replacement with a system of cash grants, the level of which is determined by a company's level of Canadian ownership and control. The other major element of the NEP which works against the foreign-owned firms is the requirement that the oil and gas industry be at least 50% Canadian-owned and controlled by 1990, and that for production to begin on the frontier, a company must attain a COR level of 50%. Such measures will have an enormous effect on large frontier lease holders such as Esso.

In reference to the interests which benefit from the NEP, the major winners are large Canadian oil capital, central Canadian industrial capital, and the federal government. Of large Canadian oil companies, it has been observed that the major beneficiary of the NEP is Dome Petroleum. Most of Dome's operations are geared towards the frontier, and as such Dome is in the best position to take advantage of the PIP grants. Another major Canadian oil and gas company which benefits considerably from the NEP is Nova. This is primarily due to Nova's natural gas and natural gas pipeline interests, as the NEP continues the government's policy to encourage business and consumers to switch from oil to natural gas (and to a lesser extent other alternative fuels). In actively promoting this, the federal government has set the domestic price of natural gas well below that of oil and has taken measures to extend the natural gas pipeline from Montreal to the Maritimes.

Central Canadian industrial capital is another interest which stands to gain (potentially) from the NEP. It is clearly the intention of the government to encourage industrial capital to enter the oil and gas sector. Indeed, industrial capital is intended to be a major private actor in the Canadianization of the oil and gas sector. Although no major industrial company has yet directly entered into the active takeover game, a number of firms have indicated that it is their intention to enter the oil and gas sector. And despite the current federal policy of high interest rates and the general depressed condition of the economy which has seriously dampened most companies enthusiasm for takeovers, in the medium-to-longer term, industrial capital can be expected to venture into the oil and gas sector.

The final interest to initially gain significantly from the NEP, at least in the short-term, is the federal government. This is due to a number of factors: 1) the significant price increases (combined with higher taxes) contained both in the September 1981 pricing agreements and in the original NEP.[328] The federal government, at the time of the September/81 agreement, anticipated that they would receive $54.3 billion in revenue over the five year life of the agreement, and it was expected that this would help considerably in reducing the burgeoning federal deficit; 2) The increased ministerial control granted to the minister of Energy, Mines and Resources; and 3) The expanded power of the federal government in the oil and gas sector, particularly on the frontier. This is due both to the increased power of the energy minister and to the expansion of Petro-Canada.

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[328] Of course it is the federal government who is currently suffering the loss of anticipated revenues most severly, due to the recent decline in world oil prices. The September/81 pricing agreements were premised upon the assumption that world oil prices would continue rising for an almost unlimited time, at a real rate of 2%/year until 1986.

Due to the fact that a number of different interests benefit in varying degrees from the NEP, it is not possible to argue that the state works directly and solely in the interests of private capital. As has been argued in this thesis, the fact that such a controversy arose over the NEP, along with the more concrete evidence of reductions in exploration budgets immediately after the NEP was introduced, strongly suggests that certain fractions of capital were far from pleased with the NEP. Hence, it has been argued that there is some autonomy to state action, although the exact amount is of course impossible to determine.

However, this is not to suggest that it is the state's intention to work against private capital. Indeed, the very opposite has been argued. The NEP is intended primarily to benefit private capital. This is evident in the generous PIP grants and in the continued focus of Petro-Canada on the frontier. The state has never intended to fundamentally alter the capitalist relations of production. It has never been intended to use Petro-Canada to squeeze out private capital, but rather to complement it. Thus, under the NEP most of the state oil company's exploration budget will continue to be spent on the frontier. The objective is to ensure that oil will continue to be available in sufficient quantities to private capital so that the private accumulation of capital can continue unhindered.

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